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UNDERCURRENTS IN AMERICAN POLITICS

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IN
AMERICAN POLITICS

Comprising the Ford Lectures, delivered at
Oxford University
and the Barbour-Page Lectures, delivered at
The University of Virginia
in the Spring of 1914

BY

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PREFACE

In the spring of 1914 it was my privilege to deliver the Barbour-Page Lectures at the University of Virginia and the Ford Lectures at Oxford University. As the two courses dealt with kindred subjects, I am publishing them in a single volume.

The whole might well have been entitled "Extra-Constitutional Government in the United States." The Oxford Lectures, on Property and Democracy, show how a great many organized activities of the community have been kept out of government control altogether. The Virginia Lectures, on Political Methods, show how those matters which were left in government hands have often been managed by very different agencies from those which the framers of our Constitution intended.

As the first three lectures were delivered to an English audience, they contain some explanations which are unnecessary for American readers; but it seemed on the whole better to print them in their original form.

When so wide a range of topics is treated in so small a book, it is impossible to give any adequate set of references to authorities. I have tried in the several lectures to make due acknowledgment to the men who have most nearly anticipated my lines of thought or have furnished me with the largest budgets of illustrative facts; but I have only been able to name a few among the many to whom I am thus indebted.

Yale University, New Haven
April 1915

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PROPERTY AND DEMOCRACY

I

THE GRADUAL DEVELOPMENT OF AMERICAN DEMOCRACY

At the time of the adoption of the federal constitution in 1788 neither the United States as a whole, nor any of the several commonwealths of which it was composed, was a democracy in the modern sense of the word.

Ever since their original settlement the political and social system of the English colonies in North America had been essentially aristocratic. Nowhere among them do we find universal suffrage. The right to vote was always confined to taxpayers, and almost always to freeholders. In one colony the minimum freehold qualification for the suffrage was a thousand acres. Nor were the voters as a body generally allowed the privilege of choosing the chief magistrates. The higher administrative officers were either appointed by the crown or elected by councils composed of a few of the richest and most influential citizens. The man of small means and unconsidered ancestry had very little direct participation in the affairs of state.

Of course the conditions varied in different parts of the country. The nearest approach to democracy was found northeast of the Hudson river, in the colonies of New Hampshire, Massachusetts, Rhode Island and Connecticut. The settlers in this district were for the most part Puritans. The region was so inhospitable that it did not attract men of wealth. In three of the four colonies a religious rather than a commercial motive had been dominant in the foundation. There was no opportunity for the growth of a leisure class, nor would public sentiment have approved of it if there had been. But though the New England freeholders were poor, they were exclusive. Though they tilled their own lands, it did not prevent them from being politically arrogant, any more than the same cause had prevented a Cincinnatus or a Fabius from being politically arrogant in the early days of the Roman republic. The freeman of a Massachusetts commonwealth looked upon new settlers who aspired to become freemen with much the same suspicious eye with which the Roman patrician regarded his plebeian neighbors.

These suspicions were most strongly manifested when the new settlers held a different creed from the older ones. The original emigrants to Massachusetts were Congregationalists. They looked

upon members of any other sect as men of doubtful character, not to be trusted with the administration of a growing commonwealth. Woe to the Episcopalian who held that his Lares and Penates were as good politically as those of his Congregational brother! During the earlier years of the history of Massachusetts the charter required that the freemen should be godly; and the Puritan founders of the colony doubted very gravely whether the Thirty-nine Articles were a sufficiently acceptable road to godliness to make it wise to trust the Episcopalian with the franchise. Even when the franchise itself had been more liberally bestowed and political power had thus become diffused through the whole body of freeholders, the spirit of social exclusiveness remained almost unchanged. For a great deal of the work of New England society centered around the church rather than the state; and the church was controlled by the descendants of the original settlers.*

* The parallel between the aristocracy of New England and the aristocracy of the early Roman republic has much interest and significance.

In either case the aristocrats were at once farmers and fighters, tilling the soil and resisting the enemy by turns. In either case there was a body of outside or plebeian neighbors, some of whom were just as wealthy as any of the patrician aristocrats, who were for a time excluded

What was conspicuously true of Massachusetts was true to a somewhat less degree in the other New England colonies. They were societies of poor but proud aristocrats. Connecticut was in some respects the most independent and democratic of all the New England commonwealths. Yet even in Connecticut class distinctions were so strong that down to the very eve of the Revolution the names of the students in the catalogue of Yale College were arranged, not in alphabetical rank, but in the order of the respectability of their parentage.

In the group of colonies immediately southwest

from the offices and privileges of the state. The barrier which separated the different classes from one another, whether in Rome or in Massachusetts, was not primarily a political but a religious one. The plebeian had not the same gods as the patrician. The Episcopalian had not the same gods as the Congregationalist. Long after the plebeian had obtained equal rights to military offices like the consulship or the dictatorship, he was excluded from semi-religious positions like that of the praetor. The same thing holds good in Massachusetts. Both in Rome and in New England the ruling class, when compelled to grant political equality, tried to keep a modicum of their old power by reserving a good deal of public authority to the representatives of the church of the founders. This authority the outsider could not claim to share merely because he shared the franchise or the right of holding military command, unless he had gone through the process which the Massachusetts Christian described in terms borrowed from the phraseology of pagan Rome—the process of "sanctification and adoption."

of the Hudson river the social system was of a different kind. There was much less religious exclusiveness, there was much more commercial inequality. Neither the Dutch in New York, the Quakers in Pennsylvania, nor the Catholics who followed Lord Baltimore to Maryland, showed the same degree of bigotry and intolerance that animated the settlers of New England. These colonies were to a greater or less extent trading ventures, in which the heads of the enterprise reserved for themselves the dominant influence in the direction and control of affairs. Instead of a religious aristocracy of small farmers, we therefore find a commercial aristocracy of traders and planters. The agricultural land of New York was largely held by a few patroons or semi-feudal overlords; a system originally established by the Dutch but not essentially altered or disturbed when the colony passed under British sovereignty. The charters of the other colonies in this region—New Jersey, Pennsylvania, Delaware and Maryland—either explicitly provided for a similar form of organization or tacitly encouraged it. In all these colonies, therefore, the influence of a comparatively small number of wealthy citizens was dominant.

This dominance of wealth was even more marked south of the Potomac, in the colonies or plantations

of Virginia, the Carolinas, and Georgia. The agricultural conditions of this region made a system of large holdings or plantations profitable both to the colonists themselves and to the fiscal agents of the mother country. Inequalities of wealth which in the middle colonies were an accident became in the southern colonies an industrial advantage if not an economic necessity. Moreover the southern plantations were particularly suitable to the employment of slave labor—first that of convicts or redemptioners, and afterward of negroes imported for the purpose. As is generally the case where slavery prevails, the body of freemen gradually divided itself into two classes: those who were rich enough to own slaves and those who were not. The former class, as is usual in such communities, succeeded in engrossing the political authority; partly by law, partly by political maneuvering, and partly by the force of social usage.

According to a report of the Surveyor General of the Colonial Customs at the beginning of the eighteenth century, quoted by Hildreth,* there were

* The account of colonial conditions given by Hildreth is in many respects better than that which we have received from later historians. Hildreth's merits have been somewhat underrated, owing to his intense partisanship in deal-

in Virginia on each of the four great rivers men in number from ten to thirty, who by trade and industry had "gotten very competent estates." These gentlemen took care to supply the poorer sort with goods and necessaries, and were sure to keep them always in their debt and consequently dependent on them. Out of this number were chosen the council, assembly, justices, and other officers of government. The justices, besides their judicial functions, managed the business and finances of their respective counties. Parish affairs were in the hands of self-perpetuating vestries, which kept even the ministers in check by avoiding induction and hiring them only from year to year. The twelve counselors possessed extensive authority; their assent was necessary to all the governor's official acts; they constituted one branch of the

ing with American political history at the end of the eighteenth and the beginning of the nineteenth century; but his treatment of early colonial affairs is comparatively unaffected by this partisanship, and shows the good effect of contact, personal and social, with colonial traditions. The men with whom Hildreth had talked in his boyhood came of these colonial families whose methods and doings he described. They had retained to a surprisingly large extent the prejudices and feelings of their grandfathers. In spite of his late date Hildreth thus speaks in the character of an eyewitness. There is, I believe, no other American historian of whom this fact is true in approximately equal extent.

Assembly; they exercised the principal judicial authority as judges of the General Court; they were at the head of the militia as lieutenants of the counties; they acted as collectors of the export duty on tobacco and the other provincial imposts, and generally also of the Parliamentary duties, while they farmed the king's quit-rents at a very favorable bargain. A majority of these counselors, united together by a sort of family compact, aspired to engross the entire management of the province.

All this is doubtless somewhat overstated. Conditions were probably not as bad as this in 1705, when the report was written; they certainly were not as bad at the time of the Revolution. But we are quite safe in saying that Thomas Jefferson's doctrines of political equality were *not* drawn from an observation of the practices that prevailed in his immediate neighborhood.

The Revolution of 1776 severed the relation of the colonies to the mother country but did not greatly alter the constitutions under which they were organized. These constitutions continued to follow the lines set down in the colonial charters in all respects except those which concerned the Eng-

lish overlord. Before the Revolution most of the colonies had been compelled to accept the governors appointed by the crown; after the Revolution the leading citizens elected their own governors and fixed the bounds of their authority; but with that exception the machinery was arranged and conducted in pretty much the same manner as before. No immediate attempt was made to extend the right of suffrage or to increase the proportion of elective offices. The property qualifications demanded of officeholders remained very high. In South Carolina, to quote an extreme instance, no man could serve as governor unless he owned property to the value of ten thousand pounds; which even in the depreciated currency was an enormous sum for that time. The social order was essentially an aristocratic one—not quite so much so as it was in England at that time, but very much more so than it is in England today. While the right to stand for office was not denied to qualified voters of proper age and substance, the actual holding of office was chiefly enjoyed by such persons as happened to belong to families of standing and consideration.

Nor did the adoption of the Federal Constitution involve any necessary or immediate change in these particulars. This constitution indeed provided

that each of the several federated states should have a republican form of government. But to the makers of the Federal Constitution the word "republican" did not mean democratic. The members of the convention that drafted it were representatives of the conservative class in the community. Their "republic" was the equivalent of Aristotle's "politeia," or self-governing commonwealth. Most of them would have been horror-stricken at the idea of universal suffrage. There was indeed in all the states a strong minority of real democrats, many of whom opposed the adoption of the Constitution. But the necessity of having an efficient central government was so obvious that the views of the conservative party prevailed decisively; and the outspoken champions of democracy were forced to acquiesce, as best they might, in the adoption of a polity which some of them regarded as a betrayal of the cause of popular liberty.

The conservatives or Federalists remained in control for twelve years after they had secured the passage of the Constitution. Then it was the turn of the Democrats, who came into power with the election of Thomas Jefferson in 1800. It is, however, significant of the state of popular feeling at the time that the advent of the popular party

to office was signalized by no important political or social changes.* Jefferson's administration illustrated the old adage, "A radical *plus* power equals a conservative." The leaders of the Democrats, like the leaders of the Federalists, were for the most part representatives of old families. Madison and Monroe bore as respectable names as Washington or Adams. Aaron Burr, arch-democrat and corrupter of society, who taught Tammany Hall the methods which have made New York politics a byword, was of as good social standing as Alexander Hamilton, friend of Washington and founder of the republic's fiscal system.

To make America a democracy, in fact as well as in name, it was not enough for one party to pass out of power. It was necessary for one whole generation to pass off the stage and give place to

* The apparent change of front by the Democratic leaders in the years immediately following the adoption of the United States Constitution was due to two causes.

In the first place, the formation of a centralized government under the new constitution was actually followed by a high degree of prosperity. The years preceding 1788 had been a time of depression. The decade that immediately followed was one of commercial expansion. It was natural, and in fact inevitable, that this change from depression to prosperity should be attributed to the Constitution and that that instrument should become popular with everybody who benefited by the commercial improvement.

The views of the extreme Democrats were further dis-

a new generation with other antecedents and other ideals. Until about the year 1820 the citizens of the United States were British subjects who had accidentally transferred their allegiance without correspondingly altering their political instincts. The United States remained in many essential features a group of English colonies, separated from the mother country in 1776, somewhat against their will, by the want of tact of George the Third and his ministers, and united with one another in 1788, also somewhat against their will, by the extraordinary tact of the leaders of the Constitutional Convention. Colonial, however, they remained in feeling, and separate also to a large degree in feeling, for twenty or thirty years afterward.

But with the advent of a new generation things were altered. Farrand, who among all our histo-

credited by the history of the French Revolution in 1792 and 1793. The excesses of the Reign of Terror gave conservatives in America as well as in England strong arguments against putting unrestricted power in the hands of the masses, and made Democrats themselves doubt whether their own theories of popular government were as good practical guides as they had previously supposed. Jefferson and his immediate followers never abandoned their belief in the people, but they modified to some extent their desire to trust the people with the direct exercise of administrative authority.

rians is probably best qualified to judge of this point, dates the real beginning of distinctively American history, not from the declaration of independence in 1776 nor from the adoption of the Constitution in 1788, but from the close of the War of 1812. The years following this war witnessed the birth of a true national spirit, which was at once American and democratic.

Several causes combined to produce this change. First among them was the effect of the Declaration of Independence itself upon boys who were taught to read it. "We hold these truths to be self-evident," said the writers of the Declaration, "that all men are created equal, that they are endowed, by their Creator, with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness." To the men of 1776 this sentence was simply a convenient phrase for justifying acts of armed resistance to England which had been committed by the several colonies in the past and were likely to be continued on a larger scale and with more organized purpose in the immediate future. The writers believed them in the same way that they believed other political doctrines of Locke or Rousseau; that is, they gave them a sufficient measure of intellectual assent to be able to use them as a basis of argument without

violating their consciences. But they were not ready to accept them as part of the sentiment which underlay their estimate of their fellow men and the conduct of their own daily life. With the next generation the case was different. What had been a phrase to the fathers was an article of faith to the sons. They had learned in their earliest and most impressionable years that this was the principle upon which the American nation was founded. It was this, they were taught, which more than anything else differentiated American society from European society. What had been at first a mere proposition regarding equality became under such influences a sentiment in favor of equality. The feeling of patriotism was enlisted to drive out the old feeling of caste prejudice. The sentiments of human equality and of national pride were in fact so closely bound up with one another that whatever strengthened the second strengthened the first. The war against England from 1812 to 1815, unfortunate as it was in many of its incidents, laid the foundation for a new intensity of patriotic feeling and new enthusiasm for human equality.

Of equal importance in promoting the spirit of democracy was the system of land laws under which the West was settled.

The greater part of the actual area of the United

States at the end of the eighteenth century was the property of the national government, unencumbered by claims of individuals or corporations. The thirteen states that formed the Union occupied only a small fringe along the Atlantic coast. Some of them held grants of land in the interior by virtue of their colonial charters; but the total area effectively covered by these grants was not large in amount. Speaking broadly, the immense domain in the valleys of the Ohio and the Mississippi was at the disposal of the federal authorities. The power thus held by the United States Government was wisely used. Alexander Hamilton, Washington's secretary of the treasury, was a man who understood the larger principles of statesmanship better than any other American of his age. He saw that in the disposal of this land fiscal considerations should be subordinated to political ones; that the most valuable thing which a democracy could do with a public domain was to settle it with as large a number as possible of actual freeholders.

In pursuance of this policy, arrangements were made for the survey of the public lands at as early a date as possible. Lines were run at intervals of half a mile, both from north to south and from east to west, dividing the country into square sections of the area of a quarter of a mile, or one

hundred and sixty acres, each. These are the quarter sections so constantly alluded to in the land laws of the United States. On the lands thus surveyed the price was first fixed at $2.00 an acre, which was afterwards generally reduced to $1.25.

But this cheap rate was not the only inducement offered to settlers. By a series of "preëmption acts" from 1801 to 1841 a man who had actually settled upon public land without paying for it was given prior claim to its ultimate ownership. It was, as it were, reserved for a time when he might be ready to purchase. Nobody could buy it over his head. The result of these Preëmption Acts was that a man who did not have the money to buy the land could enter and take possession of it, with the assurance that if he made proper improvements he would be given a chance not only to get the benefit of his improvements, but ultimately to buy the land itself out of the proceeds of his successful farming.

Hamilton built even better than he knew. The political consideration that he felt most strongly was the danger of foreign invasion. The United States held the central and western parts of the continent by rather a precarious tenure. The colonies that had revolted from England were stretched along the Atlantic seaboard. A range

of mountains, not very high but rugged and almost unbroken, separated them from the interior valleys. The first settlement in these interior valleys had been made, not across the mountains but by the Mississippi on the south or the St. Lawrence on the north. Spain held the lower Mississippi; England held the lower St. Lawrence. Most of the permanent white residents of the Mississippi valley were French. The names of the older towns show the kind of population with which we had to deal: Vincennes, Terre Haute, St. Louis. The ideals and institutions of the newly founded United States had no particular attraction for the inhabitants of towns with names like these. A war with either England or Spain—or, for that matter, a war with France—might easily have deprived the states of the Atlantic seaboard of the slender hold they had on the interior. As a result of Hamilton's land policy the interior valleys of the West were rapidly settled by a population distinctively American in its ideals and sentiments. This settlement, taken in conjunction with Jefferson's purchase of Louisiana and the upper Mississippi valley from the French and Spanish claimants, secured the country against the danger of war on the western frontier.

This was the immediate and obvious effect of

Hamilton's policy. But it had also an effect on our internal constitution, less obvious but much more fundamentally important. It created a type of commonwealth and type of man which was distinctively American. Our lands were occupied by a body of men of great ability and enterprise but small capital; men who were ready to work and respected others in proportion to their readiness to work. In the region beyond the Alleghany mountains the sort of equality contemplated by the Declaration of Independence was in large measure realized. In the valleys on either side of the Ohio river America witnessed for the first time the growth of commonwealths that had never been colonies but grew up to statehood independently; communities that had never known crown governors and crown grants, but had developed under the American flag and the preëmption law. Owing to the conditions under which they were founded, these western communities were intensely patriotic and intensely convinced of the essential equality of all mankind.

Under the operation of these causes there arose a new democracy, different from anything which was readily conceivable by an earlier generation. Of this new American democracy Andrew Jackson, elected to the presidency in 1828, was the chosen

representative. Of all the presidents of the United States he was the one who sprang most directly from the people; and the years of his triumph were marked by the development of the distinctive features which we have been accustomed to regard as characteristic of American political life—the adoption of universal suffrage, the multiplication of elective offices, and the complex system of party organization which has lasted with but slight change until the present time.*

* It is somewhat singular that the democratic America of a later generation should have so occupied the minds of historians as to crowd out the memory of the aristocratic America of earlier times. There are several reasons which may serve to account for this.

In the first place, the foreign observers of America whose accounts were most widely read saw the country after the change instead of before it. The earliest of these accounts was that by Chevalier, who investigated the American transportation system and published his results in a masterly work, "Les Voies de Communication en Amérique." The political change was not complete at the date of Chevalier's visit, but the parts of the country which he saw were those where development was most active and the new spirit of democracy most manifest.

Another Frenchman whose books were more widely read and whose views had much larger influence than Chevalier's was Alexis de Tocqueville. De Tocqueville studied America carefully and was a man of eminent ability both as an observer and as a critic; but he was a thorough Frenchman, and he had a Frenchman's fondness for brilliant generalization. Taking the America of the fourth decade of the

These developments were not consciously introduced as party measures by the national government. Under the American Constitution they could not be. The several states have to decide for themselves what qualifications shall be required of their voters and how their officers shall be elected or appointed. It is all the more significant, therefore, that such a fundamental change in public opinion should have taken place in so many commonwealths at the same time, and that a nation, till then predominantly aristocratic in its social constitution, should have become so thoroughly democratic in so short a period.

In the two decades from 1820 to 1840 new states were organized which gave full rights of sover-

nineteenth century as he saw it, he reasoned that the principles of political action which then prevailed were an inherent result of the American character, foreordained and predestined from the beginning. His observations concerning the times of which he wrote were so just that people attached undue weight to his statements of antecedent conditions, which were not based upon his own observation and were in some instances not correct. If De Tocqueville's judgments had been unflattering to the American public, some of his historical generalizations would have been more readily challenged. But De Tocqueville, though not a fulsome critic, was a friendly one. His explanations furnished American readers with plausible excuses for many of the faults of their social system. When Mrs. Trollope criticised American manners malignantly, or when Charles Dickens did

eignty to all men who were personally free; and older states like New York and Massachusetts abolished property qualifications for the franchise that had previously existed. The number of officers directly chosen by the people was multiplied. The pecuniary qualification required for the various offices was lessened or abolished. The whole system of nomination and election was so modified as to give more immediate influence to the will of the people and less to that of the leading families. Even for those offices whose incumbents were appointed by the executive instead of being elected, the old principle of fixity of tenure during good behavior was quite generally abolished, and the office itself made a reward of party service.

the same thing more goodnaturedly and humorously, it was a pleasure to fall back on De Tocqueville and to say that these evils were but the incidental defects of an inherent spirit of democracy which had always prevailed in the United States and which made people disregard the niceties of custom and convention in order to appraise men at their true value.

This is not intended as a criticism of De Tocqueville, who next to Bryce and possibly Ostrogorski, is the ablest foreign writer on American affairs; but to show why some of the less essential parts of his work gained undue influence over the public mind and contributed to a misunderstanding of earlier American history from which hardly any of our modern writers except Farrand and McMaster have been able to keep themselves wholly free.

These changes were more rapid and complete in the northern and central states than in the southern ones; but every section felt the effect of this movement in greater or less degree. With surprising speed and thoroughness the country as a whole passed from a political system which was in its essentials aristocratic and English to one which was democratic and American.

Even more remarkable than the rapidity of the change itself was the absence of any reaction of feeling or retrogression of practice such as usually follows in the wake of rapid reform movements of this sort. When the Democrats went out of office and their opponents, now called Whigs instead of Federalists, came into power, there was no attempt to bring government back to its old basis. Parties divided on other lines. The Democrats stood for free trade, the Whigs for protection. The Democrats stood for home rule, the Whigs for national authority. A few years later, as a result of the struggle between home rule and nationalism, the Democrats stood for slavery and the Republicans (who had succeeded the old Whig party) for emancipation. But in none of these American political conflicts of the middle of the nineteenth century could one party claim the title of conservative and the other that of liberal,

as these titles were understood and used in the politics of contemporary European states. The political triumph of democracy was complete.

This transformation of the political order was attended by a similar change in the social order; though the social change was for various reasons less rapid and complete than the political one.

The society of the West had been from the first quite as democratic as its politics. There was but one important class distinction—that between workers and idlers. If a settler was willing to work he could get large returns with very little capital; if he was not willing to work there was no place for him. Under such circumstances a man could achieve social position in three ways only: by hospitality, by professional efficiency, or by securing public office. Wealth without hospitality, education without efficiency, honorable descent without public service, were not regarded as social qualifications. They were despised rather than admired.

These social standards—or, if you please, this absence of social standards—of the West had a marked effect on the Atlantic coast. Almost every Eastern family numbered among its members one or two who had "gone West"; who had proved their fitness as men under the new conditions, and

were inclined to despise the social order of older communities as artificial. These men were apt to be of a type strong enough to modify the views, not only of their own family circles, but of the whole community from which they came.

In the northern Atlantic states this modification was very rapid. In the southern states it was slower. The North had been an aristocracy of small farmers who cultivated their own ground. The South had been an aristocracy of large planters who lived on the produce of the slaves. When members of slave-holding families moved westward they often carried their slaves with them, and by this means succeeded to some extent in perpetuating in the new country the class distinction which had subsisted in the old. While the general structure of Northern social life began to change in 1820, that of the South remained unchanged for a generation more; until the civil war of 1861, with the resulting enfranchisement of the negro and impoverishment of the large landholders, had taken away the physical basis on which it had rested for more than a century so securely.

But these changes in the political and social order were not accompanied by any corresponding

change in the industrial order. It has been a perpetual surprise to observers of American institutions that complete political enfranchisement has not resulted in attempts to restrict the power of capital. For at least sixty years after the adoption of universal suffrage the tendency was all in the other direction—to legislate for the property owner rather than against him; to strengthen the powers of capital rather than to diminish them. Democrats, Whigs, and Republicans differed as to their aims and methods, but they vied with one another in protecting the rights of property. Even on the remote and comparatively lawless western frontier, where a man might kill a dozen of his fellow men with impunity and enjoy the continued respect of those about him, the stealing of a horse was punished by immediate hanging and by the forfeiture of all claim to social standing in this world or the next.

The small protection given to the rights of man, as compared with that which was accorded to the rights of property, is a salient feature in the early history of every American state—and sometimes in its later history also. While England was developing a large and on the whole highly beneficent body of factory Acts, the United States was doing nothing. It is only forty years since the

first effective law regarding hours of labor was passed by the state of Massachusetts, limiting the hours of women and children to about ten a day; and even this was regarded at the time of its passage as a piece of somewhat dangerous humanitarianism. As late as 1885 the attempt to keep children out of factories until they were twelve years old was considered by many people a radical measure of interference with economic freedom. While England had been developing a system of employers' liability adequate to protect the workmen under modern conditions, the United States stood for many years idle. The old common law doctrine that the employee assumed the risks of his employment, and that the employer was not liable for damages for an injury to one workman resulting from the carelessness of another, remained in full force in America for many years after it had been done away with in England. The employer was encouraged by his immunity from responsibility to maintain antiquated methods and practices dangerous to life and limb, which he alone could change and for whose ill effects he was morally though not legally responsible. Systems of industrial insurance were devised in monarchies like Prussia; they were unknown in the democratic commonwealths of America. Progressive taxation

has been used by nearly every country of Europe as a means of correcting the inequalities of wealth. Not until the most recent times has the American democracy attempted to employ it for this purpose.*

These are but a few among the many instances of democratic concern for the interests of the property owner and democratic unconcern for the interests of humanity. Even in those exceptional cases where the Americans of the nineteenth century passed laws to restrict the power of capital, we generally find that they were intended to protect one class of capitalists against the encroachments of another. Forty years ago there was a successful agitation to abolish the practice indulged in by many manufacturers of maintaining "company stores" at which their workmen were compelled to trade; but the reform was carried through not so much because of the injury to the workmen who had to trade at the stores, as because of the injury to other stores that did not belong to the company. There was during the same period an active and widespread attempt to reduce the rates

* There was a certain amount of progression in the income taxes of the Civil War. But these taxes were introduced as revenue measures under stress of fiscal necessity, and were abolished amid general rejoicing from all parties as soon as possible after the close of the war.

charged by railroads in the upper Mississippi valley; but this was avowedly based on the fact that the higher rates prevented the farmers whom the railroads served from paying interest on their mortgages.

From time to time we find traces of discontent with the industrial system as a whole. From time to time socialist leaders would arise who attempted to organize the laboring classes of the community for a war against capital. Agitators of this kind made their most forcible appeal to immigrants who had recently arrived in the country and were not familiar with American laws and customs. There was a widespread socialistic movement of this kind in 1833; there have been sporadic ones ever since. Some of this agitation aroused a good deal of public interest and a little fear among the more timid capitalists. But as long as there was plenty of free land in the United States the socialist agitators were at a disadvantage. The immigrant felt that he had more to gain by settling down and trying to become a capitalist than by going to war and trying to fight the capitalist. He was inclined to say to the agitators what the boy said to the lady who offered him sponge cake at a party, "I can get as good as that at home." He might be ready to applaud the men who declaimed against

the injustice of this or that particular arrangement of industrial society; he was not ready to declare war against an industrial society which offered him so many inducements to become one of its members. It was the rule all through the nineteenth century that as long as the socialist orators stuck to words the multitude applauded them, but whenever their words were followed by deeds the multitude shrank from them. At bye-elections the socialists won occasional victories; at elections of national importance their vote was habitually a disappointment to the leaders of the party.

I propose in the next lecture to examine the reasons why democracy did not lead to socialism; why universal suffrage was not used to impair the dominance of the property owner; why the legal and constitutional position of property in America remained for a series of years stronger than it was in England in the same period. In the third lecture I propose to examine the effect of certain changes in the United States during recent years which have brought America, for the first time in its history, face to face with what Europe knows as the social question.

II

THE CONSTITUTIONAL POSITION OF THE PROPERTY OWNER

European observers of American politics are apt to be surprised at a certain weakness of action in industrial matters on the part of our public authorities. The legislatures are often ready to pass individual measures of regulation; they are rarely willing to pursue a consistent and carefully developed policy for the attainment of an economic end. The people frequently declaim against the extent of the powers of corporate capital; they are seldom disposed to put that capital under the direct management of the government itself. The man who talks loudest of the abuses of private railroad administration often shrinks from the alternative of having railroads owned and managed by the state.

In spite of frequent acts of adverse legislation, the constitutional position of the property owner in the United States has been stronger than in any country in Europe. However much public feeling may at times move in the direction of socialistic

measures, there is no nation which is so far removed from socialism as ours by its organic law and its habits of political action. I propose to trace, as far as is possible within the limits of a single lecture, the reasons for this somewhat anomalous condition; to show why the rights of property were so strongly protected in the Federal Constitution, as originally adopted by the several states and as subsequently interpreted by the courts; and why as a matter of history the change of the social and political order from an aristocracy to a democracy has not been accompanied by anything like a corresponding change in the industrial order.*

I shall begin with a proposition which may sound somewhat startling, but which I believe to be literally true. The whole American political and social system is based on industrial property right, far more completely than has ever been the case in any European country. In every nation of Europe there has been a certain amount of traditional opposition between the government and the industrial classes. In the United States no such tradition exists. In the public law of European communities industrial freeholding is a compara-

* For a suggestive treatment of this subject from a somewhat different standpoint, see W. E. Weyl, *The New Democracy.*

tively recent development. In the United States, on the contrary, industrial freeholding is the foundation on which the whole social order has been established and built up.

Let us examine the reasons for this in detail.

Down to the thirteenth century the system of land tenure in every country of Europe was a feudal one. It was based upon military service. A man held a larger or smaller estate on account of his larger or smaller amount of fighting efficiency. There were many rival claimants for the land. The majority of those who wanted to cultivate the soil were unable to protect themselves against spoliation. In the absence of an efficient protector or overlord no industry was productive and no large accumulation of capital was possible. The services of the military chieftain were indispensable as a basis for the toil of the laborer or the forethought of the capitalist. It was the military chieftain, therefore, who enjoyed the largest measure of respect socially, and the strongest position politically.

As the conditions of public security grew better these things changed. From the fourteenth century to the nineteenth Europe witnessed a gradual substitution of industrial tenures for military tenures; a gradual development of a system of

property law intended to encourage the activities of the laborers and the capitalists, rather than to reward the services of the successful military chieftain.* But down to the end of the eighteenth century this capitalistic or industrial sort of private property represented a superadded element rather than an integral basis of society. And even the developments of the last hundred years have not been sufficient to obliterate a certain sense of newness when we contrast the position of the aristocracy of wealth with that of the aristocracy of military rank.

In the American colonies conditions were wholly different. There was no marked separation of military and industrial classes. The working power and the fighting power were in the hands of the same or nearly the same persons. The land owner held his property by a title which was at once military and industrial. He was prepared to defend it; he was also prepared to work upon it, or at any rate to direct the labor of others who worked upon it. There was no excuse from military duty except physical weakness. There was no excuse from industrial duty except public service.

* The experience of England in this matter has been well set forth in the earlier chapters of Ashley's *English Economic History.*

Of course there was a certain differentiation of employment. There were some men, like Leatherstocking in Cooper's tales, who were specially skilled in the ways of Indian fighting; and when trouble with the Indians was anticipated, as it quite frequently was, it was understood that these men might leave their farms to be tilled by others. But when peace returned the Indian fighter went to work like his neighbors. Aristocratic as the colonies were in many of their habits and feelings, they would not tolerate the growth of a leisure class. If a man had more land than his fellows, or enjoyed more authority than his fellows, it was expected that he would work harder and fight harder. And this expectation was generally realized. There was a well-defined aristocracy; but there was no military aristocracy as distinguished from an industrial one, except in the immediate entourage of the governors sent over from England. And the effect of the aristocratic circle surrounding these governors was to weaken rather than to strengthen the claims of military authority, because its members made themselves so unpopular by their habitual exclusiveness and intolerance that they united the colonists in a spirit of resistance to all such claims and pretensions.

At the time, therefore, when the United States

separated from England, respect for industrial property right was a fundamental principle in the law and public opinion of the land. How far this respect for property right would have continued unimpaired if the several colonies had remained separate from one another is an uncertain and profitless question. They did not remain separate. They adopted a federal constitution which contained a number of guarantees for the permanence of property right—some intentional, some probably accidental—which made it difficult for legislatures in subsequent generations to alter the legal conditions of the earlier period, except when such alterations secured the approval of the courts.

I have spoken in the previous lecture of the circumstances which led to the adoption of the Federal Constitution. During the war of the Revolution, from 1775 to 1782 and in the years immediately thereafter, the American Union had been a league of independent states, and a very loose one. These states had formed an organization for mutual protection in carrying on a war against England. But this organization was very weak indeed. While the war lasted, the imminence of perils which threatened to involve all, and the personality of a few leaders, of whom George Washington was the most conspicuous, enabled the

different colonies to act with some degree of coherence. "We must all hang together," said one of the signers of the Declaration of Independence, "or we shall all hang separately." But when independence was conceded by England in 1782 and the restraints of common danger were removed, the hopeless inefficiency of the central government became obvious. From 1783 to 1789 the United States had no means of securing concert of action at home or respect and influence abroad. Clear-headed men saw the absolute necessity of centralization. The members of the Constitutional Convention of 1787 felt these considerations very strongly. A large majority of them were men of substance; a considerable minority were men of wealth. They had viewed with apprehension the readiness of their fellow countrymen to issue paper money, to scale down debts, or to interpret the obligation of contract in such a manner as to render large investments of capital precarious. It was at once a matter of personal interest and of public interest to them to prevent this; of personal interest because acts of this kind would impair their own enjoyment and success; of public interest because it was vitally necessary to America to have its industry and commerce managed in the most efficient and far-sighted way.

This fact is of itself sufficient to account for the general tone of the Constitution on matters of property right. But there are certain clauses in that instrument which have been even more effective in securing the property holders against adverse legislation than the Convention itself intended or expected. The reason for this is somewhat curious. The whole document was the result of a series of compacts, agreements, and compromises, between two pretty evenly balanced parties—a states rights party, which wished to limit the powers of the federal government, and a national party, which was anxious to set some practical control on the autonomy of the states. In meeting the wishes of these two parties and limiting the powers of both state and federal governments, the Convention more or less unwittingly* gave the property owners as a body certain

* There has been a tendency in recent years to represent the makers of the Constitution as engaged in a deliberate attempt to tie the hands of legislators with regard to their future action in matters of property right. A study of the debates of the Constitutional Convention shows that a good deal of what they did in this way was accidental rather than deliberate. This is well illustrated by the history of the clause in Article I, section 10, which prohibits the passage, by any of the states, of laws impairing the obligation of contract. No such prohibition was suggested by the Convention to the Committee of Detail for its consideration, nor is there any trace of it in the final report

guaranties against legislative interference of any kind.

It was in the first place provided that there should be no taking of private property without due process of law. The states rights men feared that the federal government might, under the stress of military necessity, pursue an arbitrary policy of confiscation. The federalists, or national party, feared that one or more of the states might pursue the same policy under the influence of sectional jealousy. To avoid this double danger both parties united on a constitutional provision which prevented the legislature or executive, either of the nation or of the individual states, from taking property without allowing judicial inquiry into the public necessity involved, and without making full compensation even in case the result of such

made by that Committee. During the discussion of this report (which constitutes the basis of the Constitution as finally passed) the insertion of such a clause was suggested; but it was opposed by Mr. Gouverneur Morris and others as unwise, and was not pressed to a vote. What the Convention ultimately adopted instead of this, was a motion to prohibit "retrospective" laws. This at any rate was the entry in the journal, though there is some doubt whether it was transmitted in that shape to the committee of final revision, known as the Committee on Style. This committee seems to have taken the responsibility of changing the phraseology of this section on its own account; so that

inquiry was favorable to the government; and it was further provided, by another equally important clause in the Constitution, that no state should pass a law impairing the obligation of contracts.

No man foresaw what would be the subsequent effect of these provisions in preventing a majority of voters, acting in the legislature or through the executive, from disturbing existing arrangements with regard to railroad building or factory operation until the railroad stockholders or factory owners had had the opportunity to have their case tried in the courts. Clauses which were at first intended to prevent sectional strife, and to protect the people of one locality against arbitrary legislation in another, became a means of strengthening vested rights as a whole against the possibility of legislative or executive interference. Nor was the

when the whole instrument was last submitted to the Convention and rather hurriedly passed, the clause was made to read: "any *ex post facto* law or law impairing the obligation of contract." A motion made by Elbridge Gerry to extend this prohibition to the Federal Government as well as to the states was not seconded. Indeed, the Convention at that stage of proceedings seems to have been not unnaturally impatient of further delay and anxious to pass anything which the Committee on Style recommended. The whole matter can be followed out in detail in Farrand's *Records of the Federal Convention*, by the aid of his excellent index to the successive sections of the Constitution.

direct effect of these clauses in preventing specific acts on the part of the legislature the most important result of their existence. They indirectly became a powerful means of establishing the American courts in the position which they now enjoy as arbiters between the legislature and the property owner. For whenever an act of the legislature violated, or even seemed to violate, one of these clauses, it came before the court for review; and in case the court found that such violation existed, the law was blocked—rendered powerless by a dictum of the judges declaring it unconstitutional.

An Act of the British Parliament is authoritative. It is law, *ipso facto,* as soon as it is regularly passed. It cannot be resisted except by revolution. But an Act of the United States Congress or of a state legislature is not law except as it lies within the limits allowed by the Constitution. Whether it transgresses these limits is a matter for the courts to decide. Any restriction of property right by legislative act is therefore null and void unless the courts decide that due process of law has been followed and that no obligation of contract is impaired.

The power thus granted to the courts to render acts of the legislature inoperative is perhaps the

most distinctive feature of the American Constitution; it is certainly the one which English publicists find it the most difficult to understand.

The jurisprudence of England is founded on the theory that there must be in every country some *sovereign,* some designated person or body of persons whose deliberately expressed will must be obeyed. The older writers based this sovereignty upon a supposititious social contract. Hobbes, for instance, said that the evils of anarchy were so great that the people had entered into an agreement to obey a common superior who could maintain order, and that, as long as the superior maintained order, the people were bound by their agreement. To philosophers of this school, the assumption of this compact, fictitious though it was, was the fundamental justification of state authority.

Bentham and his followers rejected Hobbes' fiction of a social compact. Bentham said that the authority of the state rested, not on a fictitious agreement supposed to have been made by our remote ancestors, but on an actual, present-day fact that the people recognize a common superior and render him habitual obedience. It is the fact of obedience, not the fiction of a compact, that makes him sovereign. But Bentham insisted just

as clearly as Hobbes did that there were no logical limits to the sovereign's power. There might be practical limits. Things might be so badly managed that continued obedience was intolerable. In that case we had a revolution, a temporary state of anarchy, followed by the acceptance of a new sovereign; but as long as there was any sovereign at all it was, in Bentham's view, absurd to talk of theoretical restraints upon the exercise of his power.

The American view of sovereignty differs from that of Bentham in one or two important respects. The American constitutional lawyer holds that we habitually obey a common superior within certain limits. It recognizes that the authority of the state is based on the fact of habitual obedience on the part of its members. "A just government exists by consent of the governed. But that obedience, and that consent, which are accorded as long as government keeps within what we regard as the sphere of its authority, cease when it tries to go outside of that sphere." When the acts of the legislature or executive are kept within certain constitutional lines, and follow certain rules laid down by the public opinion, we obey the government. Within these bounds it is *de facto* sovereign. When it transgresses those bounds, we do

not obey it. If it attempts to extend its power beyond the limits which public opinion has fixed, its acts are nullified;—set at nought by the refusal of the public to coöperate in their enforcement. We do not attempt to change the sovereign by a process of revolution; we leave him undisturbed within the domain of his traditional authority. But we refuse the active help which is necessary to enable him to extend that authority into an unauthorized domain.

The doctrine of passive resistance has been treated with a good deal of unmerited ridicule. We are told that it is only another name for revolution; that if any body of men assumes to tell the sovereign that he cannot pass certain limits, they themselves are claiming sovereignty by that very act. This is not necessarily true. If a man prevents a policeman from doing something which lies outside of the limits of his office, he is not assuming sovereignty. He is not even trying to lessen the respect for the police. He is simply keeping the police authority within traditional bounds. Whether such acts do result in overthrowing the authority of the police is a matter for the historian to determine. The experience of the United States shows that very sharp limits can be set to the exercise of the authority of a

governing body without in the least impairing its power and efficiency within those limits.

It is sometimes argued that if the American courts can limit the powers of both national and state legislatures, the courts themselves are sovereign. This appears to be a misleading use of language. The courts certainly do not claim or exercise the kind of sovereignty which is exercised by the English Parliament. It is a truer description of the situation to say that America under the Constitution witnesses an actual exercise of divided sovereignty; that the people live under a concurrent jurisdiction of state and nation, obeying each in some things; and that the authoritative position of the courts in determining the limits of this sovereignty is not itself a transcendent exercise of sovereign power, but a highly skilled exposition of public opinion—in other words, that the authority of American judges rests on the same sort of basis as the authority of English judges—on their power of interpretation of precedents and customs.

The early history of the Supreme Court of the United States furnishes strong confirmation of this statement. While the clauses of the Constitution left the federal courts large duties and powers, their ability to fulfil those duties and to exercise

those powers was not shown until a chief justice of the first rank—John Marshall—was by his almost unrivalled power of exposition able to enlist the opinion both of lawyers and of laymen in support of the judicial authority. It is to the work of judges like Marshall and Story and Kent that the actual position of the courts under the American Constitution is mainly due.

But constitutional restraints of this kind, while they strengthened the position of the property holder in American politics, could not give him permanent security in case public opinion demanded a change. For the Constitution itself can be amended, and will be amended, when there is a consensus of voters in different parts of the country in favor of amendment. Alteration of the Federal Constitution is a slower and more formal thing than alteration of the law, or than alteration of the constitution of any single state. But it comes when there is a demand for it. Why did not this demand make itself felt? Why did the intensely democratic America of the nineteenth century rest satisfied with constitutional provisions regarding property right which were devised by representatives of an aristocratic society in the eighteenth under circumstances which strengthened the hands of the conservatives?

The first cause for this persistence of property right is to be found in the land policy of the United States. We saw in the previous lecture how the method adopted in the disposal of the public lands promoted democracy. Side by side with this effect, and in curious contrast to it, was an equally marked effect in promoting industrial conservatism.

The immigrant who settled in the western states was offered two things: the vote, and the chance of becoming a landowner. The fact that votes were bestowed so freely upon large bodies of settlers, many of whom were of alien race and traditions, caused serious apprehension in many quarters. Where so many of the individual settlers were personally reckless and uncontrolled by tradition, there was good reason to fear that they would organize their governments in a reckless and untraditional fashion, and thus pave the way for the abuse of democratic power. These fears proved to be unfounded. The opportunity to own farms in freehold made ambitious settlers conservative. Men with a hundred and sixty acres of land were not likely to pass laws which would interfere with the rights of property, and particularly of landed property. The prospect of becoming landowners had the same sort of steady-

ing effect upon men who framed the constitutions of new states in 1820 or 1830 that the fact of already being landowners had upon the men who framed the Federal Constitution forty years earlier.

But Hamilton's policy of giving a home at a nominal price to every bona fide settler, though it was the most important single element in securing the rights of property against measures of legislative interference, was by no means the only influence of the kind.

The immigrant found it easy to get land; he found it hard to get capital. Natural resources were present in abundance. The accumulated supplies of machinery, fuel, and food which enable man to utilize those natural resources effectively were conspicuous by their absence. Each addition to the capital of the community, however small, represented a large addition to its productiveness. The savings of the settlers and the investments of citizens who lived in other states contributed alike to this end.

Under these circumstances there was a tendency to grant all possible privileges to those who had capital for investment and to free them from arbitrary restrictions of every kind. No community would enforce a usury law which limited the rate

of interest to six per cent, when people who borrowed capital at eight or at ten per cent made large and legitimate profits over and above the interest rate. The dangers lay in the opposite direction. All through the period from 1830 to 1860 the western states of the Union tended to encourage every sort of scheme which would attract capital or the semblance of capital, without much regard to its present or prospective soundness. Banking laws were so loosely and carelessly drawn that a board of directors could issue large amounts of notes upon small amounts of reserve. The bank notes, so long as they circulated from hand to hand, appeared to increase the working capital of the community; and any man who undertook to examine too closely the nature of the security that lay behind the note was regarded as an unpatriotic member of society, who in an excess of selfish over-caution questioned the validity of a bill which he might just as easily have passed on to the next man without inquiry.* Not until

* I have been told on what appears to be good authority that the bank examiners of many of the western states in the years prior to 1857 always made their visits of inspection in a certain order; so that a very small amount of gold reserve, by being passed from bank to bank at the opportune moment, could do duty in protecting a large number of separate note issues. And when I asked one of my inform-

the time of the Civil War, when the United States government needed to use the banks as a means in carrying out its own fiscal policies, was this state of things effectively remedied.

Among many means employed by the states of the Union toward rapid development of their resources, the joint stock company or industrial corporation was most prominent.

The incorporation acts of the colonies at the end of the eighteenth century were based almost entirely upon English models. The American law, like the English law of the same period, was reluctant to allow people to avail themselves of the principle of limited liability until there had been a special examination of the circumstances by some public authority. But as time went on this state of things changed rapidly. There were in America almost no large capitalists who could finance industrial enterprises on an extensive scale. To

ants what would have happened to the bank if the bank examiner had deviated from the regular routine, I was told that he would probably have had to quit the country. It is at any rate quite probable that the consequences of a departure from the regular routine would have been as disastrous both to him and to the banks as those which we find when a teacher who has for a series of exercises called his class in alphabetical order suddenly departs from this practice without notice.

build factories or canals it was necessary to get a large number of small investors united; and these investors could not safely plan to unite their fortunes for the promotion of speculative enterprises unless limited liability was assured them as a matter of course. A few states, notably Massachusetts, held to the principles of the older English law. But Massachusetts, though better provided with capital than most other parts of the Union, found that this policy interfered with its development, and that states which had more liberal laws made more rapid progress in the introduction of the necessary improvements. Investors sought other localities for investment; the growth of Massachusetts business was hindered; its character was not greatly improved. The ultimate result in Massachusetts, as in other states, was the passage of general laws under which any group of individuals could associate their capital for industrial enterprise and obtain the privileges of limited liability from the state.

Some men were awake to the danger that might arise from the growth of corporations. Andrew Jackson was one of these men; and his contest with the Bank of the United States is a well-known episode in American financial history. But such

fears as Jackson's were exceptional.* Most people were too much occupied with the necessity of getting capital for their several communities to trouble their minds very much about what might be done with the capital when it was once invested. There was far more tendency to help the corporations by subsidies and special privileges than to limit them by laws whose immediate necessity was not very obvious. Charters were granted with the utmost freedom by almost every state in the Union; and charter powers once given could not easily be restricted.

The control of the government over corporations was weakened, and the rights and immunities of the property holders were correspondingly strengthened, by two developments of constitutional law whose effect upon the modern industrial situation may be fairly characterized as fortuitous. One of these was the decision in the celebrated Dartmouth College case in 1819; the other was the passage of the Fourteenth Amendment to the Constitution of the United States in 1868.

I call their effect fortuitous, because neither the judges who decided the Dartmouth College case

* Even Jackson's quarrel with the Bank appears to have been based on personal grounds quite as much as on constitutional ones.

nor the legislators who passed the Fourteenth Amendment had any idea how these things would affect the modern economic situation. The Dartmouth College case dealt with an educational institution, not with an industrial enterprise. The Fourteenth Amendment was framed to protect the negroes from oppression by the whites, not to protect corporations from oppression by the legislature. It is doubtful whether a single one of the members of Congress who voted for it had any idea that it would touch the question of corporate regulation at all. Yet the two together have had the effect of placing the American industrial corporation in a constitutional position of extraordinary vantage.

In 1816 the New Hampshire legislature attempted to abrogate the charter of Dartmouth College. Daniel Webster was employed by the College in its defense. His reasoning so impressed the members of the court that they committed themselves to the position that a charter was a contract; that a state, having induced people to invest money by certain privileges and immunities, could not at will modify those privileges and immunities thus granted. Whether the court would have taken such broad ground if the matter had come before it thirty or forty years later, when the abuses of

ill-judged industrial charters had become more fully manifest, is not sure; but having once adopted this view and maintained it in a series of decisions, the courts could not well abandon it. Inasmuch as many of the corporate charters granted by state legislatures had an unlimited period to run, the theory that these instruments were contracts binding the state for all time had a very important bearing in limiting the field within which a legislature could regulate the activity of such a body, or an executive interfere with it.

Again, by the Fourteenth Amendment to the Federal Constitution the states were forbidden to interfere with the civil rights of any person or to pass discriminating laws which should treat different persons unequally. This amendment, passed just after the close of the Civil War, was intended simply to protect the negro; to prevent the southern states which were in the act of being readmitted to the Union from abridging the rights of the blacks. A number of years elapsed before the probable effect of this clause upon the constitutional position of industrial corporations seems to have been realized. But in 1882 the Southern Pacific Railroad Company, having been, as it conceived, unfairly taxed by the assessors of a

certain county in California, took the position that a law of the state of California taxing the property of corporations at a different rate from that of individuals was in effect a violation of the Fourteenth Amendment to the Constitution, because a corporation was a person and therefore entitled to the same kind of treatment as any other person. This view, after careful consideration, was upheld by the federal courts. A corporation, therefore, under the law of the United States, is entitled to the same immunities as an individual; and since the charter creating it is a contract, whose terms cannot be altered at the will of the legislature which is a party thereto, its constitutional position as a property holder is much stronger in America than it is anywhere in Europe.

This effect of the Fourteenth Amendment was all the more important because it came at a time when men's political conservatism had been a good deal unsettled by the incidental consequences of the Civil War.

The dominant power of the large landholders of the South had been destroyed. These landholders had remained more essentially an aristocracy than any other social group in the United States; and like most aristocracies, they had been essentially conservative in all questions affecting property

right. When a body of men like these, as conspicuous for their political ability as had been the Roman landed aristocracy two thousand years earlier, was suddenly reduced from affluence to poverty, an important bulwark for the stability of property rights was taken away.

The Civil War had accustomed people to the use of depreciated paper money, dependent for its value upon the order of the government making it a legal tender for the payment of debts. The over-issue of United States treasury notes, or greenbacks, had been so great that a dollar in paper in 1864 was worth less than half a dollar in gold. This had had a considerable effect on wages and prices in every line of industry. It had encouraged speculators to contract obligations recklessly because they hoped to pay them in a currency that would have become still further depreciated. In districts where such speculators were numerous the voters frequently urged their congressional representatives to oppose any attempt to restore specie payments after the war had come to an end. For twelve years after its close debtors and creditors contended against one another to secure action by the United States government regarding its treasury notes which should be favorable to their several interests. After it became

evident that no more paper would be issued, and that the government could and would accumulate a sufficient gold reserve to resume payment of its notes in 1879, the debtors joined with the silver mine owners to renew the coinage of the old silver dollar, which was now worth less than the gold dollar. The fact that the government was thus constantly importuned to legislate against one class of property owners for the benefit of another prepared the public for the more radical suggestion of legislation against property owners as a body, in the interest of those who had little or nothing.

The tariff legislation in the years following the Civil War had a somewhat similar history. During the war all taxes had been high. There were heavy excise rates which the home producer had to pay. To give him some measure of protection the import duty on foreign products which came to the American market was made higher still. In the years immediately following the war the excise duties were abolished. The import duties, through a disagreement between the Senate and the House as to details, remained unchanged. The result was that many industries were given the benefit of extraordinarily high rates of protection which nobody had ever really intended to bestow. Some of the concerns called into being by this unwise

policy were dependent upon its continuance for their very existence, while others more favorably situated, which could have maintained themselves with moderate duties or perhaps with no duties at all, were enabled to make extravagant profits for their stockholders. All this accustomed people to the idea that prosperity was dependent on Acts of Congress, rather than on the operation of intelligent self-interest, and paved the way for the advocate of more energetic state control over property holders as a body.

Nevertheless, the tendency to rely on competition remained very strong. The American people had seen so much good that came from competition that it was inclined to trust it unduly, and to feel that where competition failed to protect the consumer or laborer special legislation to regulate industry would probably make matters worse instead of better. Where one corporation had a monopoly and abused it, it was thought that such monopoly and such abuse would be only temporary. It was confidently believed that unfair and exorbitant profits would invite a rival corporation into the field, so that rates would go down and abuses correct themselves. Even in matters like railway transportation, where monopoly was requisite in the interest both of public convenience and eco-

nomical administration, people clung, in the face of adverse experience, to the hope that competition must somehow be made to act.

Some of this irrational belief in competition existed in England;* but it was never quite so strong as in the United States. There had always been a great many lines of business in which England did not tolerate the imposition of competitive rates, while America accepted them as a matter of course. Contrast the attitude of the two countries in the matter of rentals for agricultural land. The English landowner who deprived an old tenant of possession because a new tenant was ready and able to pay a higher rental, forfeited social consideration. In America the landowner was subject to no such restriction. If he rented his land he was expected to get what he could. If he

* The history of English railway legislation furnishes marked instances of this sort of opposition. From 1830 to 1850 Parliamentary committees were constantly trying to arrange toll systems by which independent carriers could have their trains hauled by the railway company, and running powers under which different companies could compete with one another upon the same line of rails. The Railway and Canal Traffic Act of 1854, though it was based on careful study and was in many respects a well-drawn measure, shows a most obstinate adherence to the belief that the competition of different carriers on the same line of rails must somehow be possible if the proper way of enforcing it could be discovered.

sold it he was expected to sell it at the highest price obtainable. As long as he did not rent his property to people who would use it for immoral purposes, or sell it to notoriously undesirable citizens, the public would not condemn him for seeking the best market he could get.

Again, contrast the conditions affecting the rate of wages in the two countries. In England labor was comparatively immobile. Migration from district to district was the exception, rapid change from one occupation to another a still rarer exception. The consequence was that wages in most districts and in many occupations were to a large measure fixed by custom. Even in those industries where competitive wages might otherwise have been paid, the effect of the trades unions was to limit the output of the individual laborer, and therefore to prevent him from competing with his fellows; to substitute the principle of collective bargaining for that of competition. In America the case was wholly different. The mobility of the laborer was very great. He went where he could get the highest wages. If he was paid by the piece, as he generally preferred to be, he worked as hard as he could to increase his earnings. Other members of the community looked on with satisfaction, because he was doing all he could to increase productivity.

They were glad to have him do as much as he could. They wished to have him dispose of his labor in the best market. Under these circumstances competitive wages were not only paid and earned, but approved by society as a standard.

This indicates the fundamental reason why competition was viewed with so much favor in the United States. It put a premium on economic efficiency. It tended to give the direction of industrial affairs to the men who could obtain the largest product with the smallest labor. This was vitally necessary for the United States in the first half of its history—more necessary, I believe, than to any European country. For the immediate problems that lay before the United States at that time were predominantly industrial ones. We had a new country to develop. We had to attract capital by every possible means. We had to employ a moderate amount of labor and a very scanty amount of inherited wealth in industrial competition with the nations of Europe. This was for a long time the only line in which we could compete with them; it was on our efficiency in this particular that we based our claim to national importance. We had no army or navy comparable with that of European states. Our public service, except in one or two departments, was rudimen-

tary. Our work in literature and in science showed promise rather than performance. But in the intelligent conduct of industry and the development of inventions connected therewith, we had no rival but England. England had the advantage of accumulated capital and sound business traditions; America had the advantage of a competitive system that brought progressive men and methods to the front and thereby equalized the struggle. Small wonder that the patriotic American looked with favor on an institution that enabled him to hold his own in the industrial race. Small wonder that a republic predominantly composed of strong men should overlook the abuses of a system under which the weak members suffered, when it contributed so much to the standing of the nation as a whole.

III

RECENT TENDENCIES IN ECONOMICS AND IN LEGISLATION

We saw in the last lecture why the adoption of universal suffrage in the United States was not followed by a movement in the direction of socialism. Most of the voters expected to become property owners; this made them regard any restriction of the rights of property as undesirable. Nearly all of them believed that free competition would protect the community against extortion or abuse by the property owner; this made them regard such restriction as unnecessary. These were the sentiments and ideals which prevailed among the great body of the American people until the time of the Civil War in 1861.

The war did not weaken the belief in competition, nor lessen the desire of the average American to become a property owner; but it made people more ready to see the functions of government extended, and less conservatively tenacious of legal tradition. Under stress of military necessity the state and national authorities had indulged in a

good deal of arbitrary interference with personal liberty and private property. People had become so used to this sort of conduct on the part of government officials that a great many things which would have been resented as usurpations at the beginning of the war were tolerated as ordinary incidents of life at the end of it. The class that would have been most inclined to resent such usurpation—the large landowners of the South—had been reduced from affluence to poverty. While the conservative planters had been losing their money, and with it a good deal of their political power, enterprising and often reckless speculators had fallen heir to their wealth and influence.

When matters were in this condition a large section of the community found its faith in competition somewhat rudely shaken by what is known as the Granger movement.

No states had done as much to attract outside capital in the years preceding the Civil War as those of the upper Mississippi valley. Land was fertile, labor was efficient; opportunities for productive industry of every kind were abundant. The only disadvantages under which the region suffered were lack of capital and remoteness from market; and the people strove to overcome these

disadvantages by borrowing money and building railroads with the utmost rapidity. Grants of public domain were offered on a large scale to any group of capitalists that would build a new line. "Each community wanted railroads at any price. Each railroad offered glowing inducements to settlers. The result was that railroads and settlers both moved too far west, and ran heavily in debt to do it."

In England and in some of the older parts of the United States railroads were built to accommodate traffic already existing. Cities were already there. Markets were already there. The people had had means of trading with one another before the railroad came. The railroad merely facilitated the process of exchange and increased the growth and prosperity of the community. But in the newer parts of America the railroads were built to create traffic. Men went west to occupy land that the railroads had made accessible. They had frequently borrowed money to improve that land. Unless they shipped their grain to market by rail they had no power to sell their products or pay interest on their loans. If the price of wheat in the markets of Europe or the Atlantic seaboard was high, the railroad could charge rates that would pay interest on its bonded indebtedness and

leave the farmer enough to meet his obligations also; but if for any reason the price fell, one or the other must go to the wall. If the railroad kept its rates high the farmers suffered. If it reduced its rates its own security holders suffered.

This was the dilemma which the communities in the upper Mississippi valleys faced in 1869 and 1870. Up to that time the European demand for grain had been so large that prices were well maintained in spite of the increased American wheat acreage. When prices fell railroad rates were reduced to a very low figure at competitive points; but they were kept at a high figure at intermediate points, where the shipper had but a single railroad to deal with and was forced to use that or see his grain go to waste. Free competition helped the city but not the country.

The railroads claimed that it was necessary for them to make their local rates high; that if they did not they would have to go out of business. The farmer was by no means satisfied with this answer. He thought that if the railroads could afford to do business cheaply for the city they could afford to do it cheaply for the country; and in any event he needed to pay his interest as much as they needed to pay theirs. In the years from 1869 to 1877 the farmers' organizations, or granges,

insisted that their representatives in the legislature should compel railroads to make cheap rates for country districts.*

How could this result best be accomplished? This was the question on which there was no consensus of opinion. The radicals favored government ownership of railroads as the best solution of the problem. But the civil service of the United States in 1870 was in such bad condition that very few men, whatever their prepossessions in favor of government ownership as a theory, believed that the United States was in a position to put that theory into effect. Public office was regarded as a reward for partisan activity. Efficient men were turned out of their places in order to make room for less efficient candidates who had rendered political

* This organized attempt to control railroad rates by representatives of farmers' organizations is known as the Granger movement. It is noteworthy as having aroused the attention of the American people to the fact that there was a railroad problem which free competition would not solve; and as having been the first considerable attempt to use representative government as a means of limiting the power of property owners to manage their business in their own way. Strictly speaking, it was not an attempt to attack the rights or interests of property owners as a class. It was an attempt to limit the rights of one set of property owners, the railroad security holders, in favor of another set of property owners, the farmers of the Mississippi valley.

services, sometimes of a very questionable character, to help the dominant party to triumph at the preceding election. It was proverbial that it cost the government two or three times as much as it cost a private individual to get any piece of work done, and that when the work was done it was not well cared for or efficiently managed. To entrust an agency like the railroad, on which the industrial life of the country depended, to such unfit hands as those of the United States officeholders in 1870, was to say the least a dangerous experiment.

Reformers who were not quite so radical advocated laws prescribing the rates which railroads could charge—the tariff itself being usually arranged by a special commission appointed for the purpose. Such laws were in fact passed and such commissions appointed in a large number of states. The most thoroughgoing experiments of this kind were made in the upper Mississippi valley. The commissions usually took the rates which railroads charged at competitive points as a standard of what the railroads could afford, and then reduced the rates at intermediate points to a corresponding figure per mile. The railroads protested that this was confiscation; that an equal mileage system was wholly inapplicable to railroad business; that the

rates at competitive points did not pay a fair share of the fixed charges; and that the application of this standard to other parts of the system would reduce them to bankruptcy. The courts, however, upheld the right of the commissions to prescribe railroad tariffs; quoting the words of Lord Hale *De Portibus Maris* to the effect that when any business was in fact a monopoly the state had the right and duty to fix prices, and holding that the capitalists had invested their money subject to this disability.

This was regarded as a heavy blow to the security owners. It apparently deprived them of their one safeguard against reckless legislation. But a more powerful force than that of the courts was working to protect the investor. As soon as the capitalists found that certain states would not allow them to earn interest on railroad investments they refused to invest more money in those states. No new roads were constructed; the equipment that wore out was not replaced. The rates at which wheat was carried to market remained low; but a great deal of wheat did not get carried to market at all, because the physical means to transport it were lacking. The legislatures could prevent high charges, but they could not prevent deficient service; and deficient service was a worse evil than

high charges. Under these circumstances the farmers found themselves compelled to allow the railroads fair profits. The very men who had been most active in passing rate laws from 1870 to 1874 were readiest to repeal them in 1878.

While these experiments were being tried in the West, another and more permanent solution was devised in the East by far-sighted railroad men like Albert Fink and publicists like Charles Francis Adams. These men pointed out that while the temporary interests of investors and shippers were often different, the permanent interests were very nearly or quite the same. They believed that the American law should be more nearly modeled on that of England; providing for publicity of accounts and rates, forbidding preferences of every kind, and directing the railroads, in consultation with state railway commissioners, to prepare tariffs by which the permanent interests of the investors and of the shippers should both be secured. On the whole, the states that adopted this plan, which was known as the Massachusetts system, got better railroad service and dealt with railroad abuses more effectively than those which tried to prescribe tariffs of charges. When the first national measure of railroad regulation, or interstate commerce law,

was passed in 1887, it was inspired mainly by the Massachusetts idea. Although the Act was the result of a compromise, its general tenor was conservative rather than radical.

But about this time people discovered that there were other industries besides railroads in which competition did not operate. The telegraph services of the country were being consolidated and monopolized as completely as the railroad service. The same thing was true of the telephone, of electric light and power, and of the gas and water supply of various cities whenever these were controlled by private corporations. Nor was this condition confined to the so-called "public utilities." The system of monopoly had extended itself to productive enterprise of almost every kind. The storage and refining of petroleum was centralized in the hands of the Standard Oil Company. Other industries were controlled and monopolized by corporations less widely known to the public but not less effective and often much more arbitrary in their action. No longer could we regard the railroad as an exception to a general law, to be dealt with by exceptional means. The very existence of the competitive system of industry was threatened. The question seemed to be not whether competition could be made to work uni-

versally, but whether it could be made to work at all.

With regard to public services like gas or water or telephone communication, people quickly accepted the idea that they must almost necessarily be monopolies, and took measures accordingly. The existence of two rival gas or water companies obviously involved unnecessary expense on account of the duplication of pipes. The maintenance of two rival telephone companies caused less obvious but more burdensome expense, because everybody had to pay subscriptions to two different exchanges and had the added inconvenience of looking up addresses in two different books.

Having once squarely recognized the impossibility of enforcing competition in these lines, the problem of control was comparatively simple. The various states frankly admitted that monopoly was inevitable, and appointed public utilities commissions with power to fix rates which should be fair both to investor and to consumer. But it was difficult to deal with the ordinary forms of productive industry in this way. It would have been impossible to select a commission sufficiently intelligent in its judgment and encyclopædic in its knowledge to fix the prices of all sorts of marketable commodities. Nor did the public wish to have

things managed in this fashion. Whatever might happen with railroads or telephones, people wanted factories and stores to be competitive.

Contracts in restraint of trade and other arrangements to prevent competition have always been treated by the common law as against public policy and therefore unenforceable. But many of the states of the Union went farther than this, and made such combinations misdemeanors and punished them accordingly. In the year 1890 Congress passed a federal law of this kind, commonly known as the Sherman Anti-Trust Act, which declared illegal and criminal, punishable by fine or imprisonment or both, every contract or combination, in the form of trust or otherwise, or conspiracy in restraint of trade and commerce among the several states or with foreign nations, and any monopolizing or attempt to monopolize any part of trade or commerce among the states.

It is a little difficult to know just how the framers of the Act of 1890 expected it to be carried out. It was explicitly stated during the debates in Congress which preceded its passage that it was not intended to apply to railroads, for these were already regulated by the Act of 1887 under the reserved police power of the state. Probably half of those who voted for the Sherman Act supposed

that it would remain a dead letter—like the man who, when asked for his views on prohibition, said that he was in favor of the law and against its enforcement. The Republicans were in power at the time, and the Republicans were friendly rather than hostile to organized capital. But the Republican party managers were frightened by the public indignation against monopolies, and thought that they could save the next presidential election by the passage of a rather sweeping law which they were confident that their friends could evade if they wished to.

They did not succeed in carrying the election; but when the Democrats came into power in 1893 the law still remained unenforced. Other issues occupied the public mind—tariff reduction, the currency, relation to European powers. Curiously enough, the first important cases decided under the Sherman Act dealt with railroads, to which its framers had not intended it to apply. In spite of the presence of the law upon the statute books, the years from 1898 to 1901, which marked the recovery of business after the long depression that had preceded it, witnessed a development of combinations of producers which for number, variety, and over-capitalization far surpassed anything which America had previously experienced.

For a time it seemed as though nothing would be done to restrict the power of these combinations. The years named constituted a time of general prosperity and of advancing wages. No one—manufacturer, farmer, or workman—was inclined to quarrel very seriously with a system which appeared to contribute to his own prosperity. But with the advent of a period of trade depression in 1903 people at once assumed a more critical attitude toward combinations of capital; and they have continued to maintain that attitude down to the present time. During the last decade the United States has witnessed a movement in the direction of state socialism which, though less thoroughgoing than the corresponding movements in Germany or France or even England, is nevertheless very different in character from anything which occurred in the century preceding.

The reasons why no such movement developed in the nineteenth century were explained in the previous lecture. They may be summed up in a single sentence. Where every man of energy and enterprise expected to become a property owner, the community was not inclined to favor legislation that restricted the rights of property. Of course there were exceptions, and numerous ones. All through the later years of the century there was

a strong humanitarian movement in favor of protection to the weak. There was a growing sentiment, which found expression in state laws, that children must be kept out of factories until a reasonable age; that hours of labor, particularly for women and minors, must be duly regulated; that unsanitary or unsafe modes of doing business must be stopped; and that the crowding of population in the tenements of our large cities must be regulated as effectively as possible. Permanent labor commissions, to devise and enforce such legislation, were organized in a large number of the states of the Union; and a national Department of Labor with the same ends in view was established in 1888.

Side by side with this humanitarian movement among property holders there had been an increasing amount of agitation for government control of industry among the workmen themselves. With the development of immigration from eastern Europe there was a growing proportion of laborers in the United States who did not understand or appreciate the individualistic traditions of an earlier generation and had neither the expectation nor the ambition to become property owners and take their places in the ranks of the capitalist class. As the public land of the United States was

used up, the opportunity of securing a freehold grew less attractive. As manufacturing establishments increased in size, the prospect of reaching the headship of such an establishment and becoming an independent employer of labor grew more remote. Under these circumstances a kind of antagonism of classes grew up in the latter part of the nineteenth century which had not been possible a generation or two earlier. Many active and intelligent workmen preferred to take their chances of becoming leaders of their own class in a struggle against the capitalist, instead of trying to pass from the ranks of the laborers to those of the employers.

But this growth of class antagonisms, though it increased the dangers of industrial conflict, did not of itself produce any constructive changes in the social order. The Knights of Labor were able to organize strikes and boycotts on a large scale in 1885, and again in 1893. They were able to secure the passage of arbitration laws in various states, culminating in the Federal Act of the year 1898. But they were not able, either alone or in conjunction with the leaders of the humanitarian movement, to carry the country with them in any organized effort to overthrow the competitive system or seriously impair its dominance. The

efforts of the laborers as a class to secure their rights, or what they deemed to be their rights, aroused antagonism in other equally important classes of the community, particularly among the small farmers. What modern sociologists call the creation of class consciousness has done more harm than good to the labor movement in the United States. To accomplish their ends laboring classes must work with other classes, not against them. The attempt of the Knights of Labor to boycott everybody that did not obey the dictates of their organization resulted after two years in a virtual boycott of the Knights of Labor by the community. The employment of foreign socialistic literature to excite workmen against the traditional laws and institutions of America has on the whole done much more harm to those who used it than to those whom it was intended to injure. Affiliations between the more radical wing of the American labor leaders and the Industrial Workers of the World have been a source of weakness to the labor movement rather than of strength.

The most serious mistake of the American labor leaders of the nineteenth century, from the standpoint of practical politics, was that they ignored and antagonized the farmers.

In the year 1879 Henry George published his

remarkable book on Progress and Poverty, which attracted wide attention not only in America but throughout the whole civilized world. It was brilliantly written; it had great loftiness of purpose. It promised the country deliverance from the worst economic evils under which it labored. Its sales ran up into the hundreds of thousands. While its conclusions were not accepted by the thoroughgoing socialists, brought up in the school of Marx, they were popular with nearly all American workmen who were actively engaged in labor agitation. It was George's fundamental principle that all necessary reforms could be secured by taxing the unearned increment of land to its full amount. This conclusion was for obvious reasons exceedingly unpopular with landowners of every kind; with the small farmer or the owner of a little home no less than with the large proprietor. The fact that the labor party committed itself so generally to an endorsement of Henry George's views made it impossible for that party to be successful in a democracy where a great number of the voters lived on land which they owned or hoped to own.

A quarter of a century later all this had changed. In 1903 the main attacks of the labor men were no longer directed against land ownership, but

against organized capital. The alignment of parties was therefore quite different. The smaller landed proprietors, in the city and in the country, had changed sides. The owners of farms and homes did not regard the attempts to control large combinations of capital as attacks upon themselves, but rather as measures conducive to their interest.

Two main causes had combined to produce this attitude of hostility on the part of the farmers toward the organizations of capital. In the first place, the farmers believed that combinations of capitalists, by suppressing competition, were enabled to charge more for their goods than they otherwise would have received, and that the men who bought goods from the manufacturers or services from the transportation agencies were by this means unfairly taxed; and in the second place they felt a strong and somewhat unreasoning jealousy of the "money power" which was behind these organizations.

Prices of all goods and services had risen very rapidly in the years from 1899 to 1903. The profits of industrial monopolies during the same period had also been very large. It was therefore natural that the buyers should attribute the increase of price to the existence of monopoly, and should regard the profit as having been obtained mainly

by unfair measures of extortion from the public which competition would have prevented. As a matter of fact, this view was only partly correct. The period from 1899 to 1903 was one when prices rose in nearly all industries, whether monopolized or competitive. This was a necessary result of the increase in gold production in the closing years of the nineteenth century, followed by the sudden expansion of banking credits at the beginning of the twentieth. Every man who was engaged in the production of goods or services which took time—every one, in short, who had invested capital at the beginning of this period to get returns at the end of it—got more than a normal rate of profit, because currency conditions enabled him to sell his goods at higher prices than anybody expected. The prosperity of the large corporations was partly due to this cause; it was partly due to economies of method and organization which they were able to effect as a result of their combination; and it was partly also due to their power to fix prices without fear of competition on a large scale. But it was natural enough that this last element had exaggerated importance in the public mind. People saw that the cost of living had greatly increased; they saw that many articles which had been sold at low prices under competition in 1899

were sold at high prices under combination in 1903; and they naturally thought that the difference was due to the suppression of competition.

Even more potent than their dislike for high prices was their jealousy of the money power which was supposed to be behind these combinations. The South and West have an inherent distrust of New York. They believe that the financial institutions in and around Wall Street exercise a baleful influence upon the business of the country as a whole.* I shall not try to discuss how far there was any real antagonism of interests between the West and the East in these matters. There was at any rate a *feeling* of antagonism; and many things happened to accentuate that feeling in the opening years of the twentieth century.

Chief among these was the development of interlocking directorates. In combining the manufacturing and transportation interests of the country on a large scale, the banks of New York and other eastern cities were extremely active. Sometimes the bankers themselves took the initiative; some-

* "If a man finds a discrepancy between the face value of a share of stock and the amount actually paid in by the subscriber," said a prominent and high-minded New York banker, "the West at once believes that the difference was stolen, and probably in Wall Street!"

times the manufacturers who wanted to make a combination went to the bankers to secure their help. But in either case the financiers of New York and Boston and other eastern cities were active agents in the work of combination and the exchange of securities incident thereto. As a consequence the banks had a large representation in the directorates of the new concerns. The same man might be a director of twenty, fifty, or even a hundred large combinations; not because he was familiar with their work from the operating side, but because he could give them financial strength and support. Under these circumstances the people who were not included in such combinations—the small farmer, the salaried official, the wage-earner—assumed that all these great enterprises were managed from one common center, and that the purpose that controlled their management was gain for the financial world at the expense of the industrial one.

These views were reflected in the public press. Journals of every kind—daily, weekly, and monthly—published articles which stimulated this suspicion by fair means and foul. Gradually the people came to believe that there was an alliance between the money power in Wall Street and the conservative element in the halls of Congress.

There were plausible grounds for this belief. There has always been a certain amount of unwise congressional legislation in behalf of various industrial enterprises, and a great deal of improper employment of lobbyists to secure such ends. All this was made the subject of attack; and it was a kind of attack that was peculiarly effective. When President Cleveland in 1888 tried to show the farmer that the high protective tariff injured the economic interests of the country, the farmers did not listen to his arguments. But when it was suggested twenty years later that the tariff had been devised in the interest of a money power which the farmer hated, the suggestion at once found ready credence.

Dislike of high prices and jealousy of the money power thus combined to put the small property owners on the side of those who had no property, rather than on the side of those who had large property. It was in this respect that the industrial movements of 1903 differed from those of 1883 or 1873. In the year 1873 the farmers were agitating for state control, but the laborers were not. In the year 1883 the laborers were agitating for state control, but the farmers were not. The year 1903 for the first time saw these two large elements ranged on the same side.

The effect of this has been seen both in the law and in the politics of the country. The decade from 1903 to 1913 has witnessed the passage of a number of measures which twenty years ago would have been regarded as distinctly socialistic in tenor. Where state control already existed it has been made more strict. The Interstate Commerce Law of 1887 was supplemented by the Elkins Act of 1903, the Hepburn Act of 1906, and the Mann Act of 1910. These measures had the support of conservatives who saw the necessity of bowing to public opinion, as well as of progressives who had helped to create that opinion. Nor was the attention of Congress confined to rate regulation. A Department of Commerce and Labor was established in 1903, with powers much wider than those of the old Labor Bureau. A federal Employers' Liability Act was passed in 1906. An Hours of Service Act went into effect in 1907. And meantime the experiments of individual states in these matters went far beyond what was done by federal authority.

But of even more consequence than the passing of new laws was the increased activity shown in enforcing old laws. By the mere action of public sentiment the Department of Commerce and Labor in the Federal Government was given an impor-

tance which its sponsors hardly anticipated. By the same force of public opinion, statutes which at first had been little more than dead letters were brought into active use as agencies of industrial control. When the federal arbitration Act of 1898 was originally passed it was regarded both by its advocates and by its opponents as a thing of slight consequence—a piece of machinery which could be invoked only in occasional instances. Today public opinion virtually compels railroad corporations doing interstate business to submit their disputes to federal arbitration. Of still greater significance is the history of the Sherman Anti-Trust Act of 1890. In the first twelve years during which this law was on the statute books, only two or three decisions adverse to industrial combinations were rendered, and these were not of great importance. But in the years following 1903 prosecutions and decisions under the Sherman Act followed one another in rapid succession. A climax, though not an end, was reached in 1911, when the United States Supreme Court ordered the dissolution of two of the largest and strongest industrial combinations in the country—the Standard Oil Company and the American Tobacco Company. Nor was this movement confined to industrial combinations. Railroad companies were made to

feel the effect of the new policy and the disposition of the Supreme Court to extend its application to an increasing range of cases; a disposition which reflected the progress of public opinion in the country as a whole.*

While all political parties in the United States claimed credit for the principles of the Sherman Act and professed a wish to enforce it, the Democratic party was most consistently active in this direction; and the triumph of the Democrats at the presidential election of 1912, whatever may have been the other causes which contributed thereto, represented a victory for those who desired a rigid enforcement of the laws against organized capital and a return to a system of smaller industrial units.

But though the action of legislatures and courts during recent years has been satisfactory to the public from a political standpoint, it has not been so from an economic one. The dissolution of large companies has not been followed by a reduction in charges. On the contrary, it has been attended in many instances by an increase. This increase is partly due to the general rise of wages through-

* The student of American constitutional history will find this progress set forth in detail in F. N. Judson, *The Law of Interstate Commerce.*

out the country; partly to the increased cost of the methods of doing business imposed by recent Acts of Congress and of the several states; and partly also to the fact that the work of separate concerns is in many respects less economical than that of a large combination. Manufacturers who have been forced to dissolve their combinations have raised their prices in order to cover this increased cost. Whatever good enforced competition may have done, it has not brought the expected reduction in the expense of living. Dissolution appears to have hurt the consumers more than the investors.

With railroads the case has been different. When railroad expenses are increased either by wage arbitrations or by new governmental requirements, the companies are not allowed to raise their charges in order to meet the loss unless the Interstate Commerce Commission gives its consent; and this at best involves prolonged delay. The financial results to the railroads arising from their inability to raise rates have already been very grave, and the results to the public are beginning to be equally bad. Not only has there been loss of dividends and interest, but there has been decided reduction in quality of service, diminished demand for iron and steel products, and widespread dis-

tress among large numbers of men thrown out of work in transportation and allied industries.

This state of things seems likely to grow worse instead of better in the immediate future.* It has become clear that the enforced reintroduction of competition by authority of the government does not do for the public in the way of service, economy, and rapid investment of capital what the old-fashioned automatic competition did for our fathers. In order to get adequate service and low rates, inducement must be afforded for added investments of capital. This inducement does not exist today, and the country is suffering from the consequences. The immediate future will undoubtedly see a reaction. There will be a movement either in the direction of greater freedom to the capitalist or of more intelligent supervision on the part of the government. The conservative wing of the Republican party hopes for the former; the progressive wing desires the latter.

In a rather remarkable passage of the *Politics* Aristotle says that the permanence of a commonwealth or organized body of citizens requires the reconciliation of two somewhat inconsistent aims. The laws must correspond to the wishes and the

* I leave this sentence as it was uttered in May, 1914.

judgment of the great body of freemen; the conduct of the business of the nation must be in the hands of men who are more skilled than the great body of freemen can be, and who will probably do things for the community as a whole which are not understood or approved at the time.

During the first century of the American republic the first of these results was secured, at the sacrifice of the second. The means on which the framers of the Constitution relied in order to obtain expert conduct of public affairs—the system of indirect election, for instance—proved futile for the purpose. During the greater part of the nineteenth century the only way to secure skilful management of public business was to keep it out of the hands of the government and put it into the hands of the property holder. Many things which European nations did through government agencies were left undone in America. Many other things were left to private capital.

As long as there was even a semblance of free competition, the American nation as a whole was well content to have most of its business done by private capital because in that way it could be done efficiently and progressively, while under the existing conditions of the American civil service government management would have meant waste

and stagnation. Now that competition is found to be impossible in many of the important lines of business, the public is not so well content to leave things in private hands and is willing to experiment with state control, even at some sacrifice of efficiency. But our experiments in this line are proving very costly; more costly than the general public even yet appreciates. The solution of the problem will not be reached until the public demand for state control of industry and for trained civil service go hand in hand.

America must learn the overwhelming cost to the consumer and the public of inexpert control. We have made some progress in that direction since 1870; but we are far from having reached the point which a great nation needs to attain. Outside of the army, the navy, and the judiciary, the standard of administrative intelligence in America is lower than it is in Europe, and the public appreciation of the need of administrative intelligence a great deal lower. High positions in the public service, in spite of many honorable exceptions, are still given as political rewards. High positions in private or corporate business, with some dishonorable exceptions, are still given as rewards for efficiency. Until these conditions are altered and the public appreciates expert work in the offices of state,

industrial control in the United States is likely to remain in the hands of the property owner, on such terms as will give adequate inducement for the saving of capital and adequate guarantees for its intelligent use.

POLITICAL METHODS OLD AND NEW

IV

THE GROWTH OF PARTY MACHINERY

It is the intent of every nation, whatever its form of government, to have that government administered in the public interest. It is the perpetual danger of every governing body—monarchy, aristocracy, or democracy—that its powers will be used, not for the public interest but for the interests of certain individuals or classes.

Each form of government is liable to its own peculiar perversion. A true monarchy is a government by a king for the benefit of the people. When he governs for the benefit of himself and his friends, he perverts monarchy into tyranny. A true aristocracy is a government by the wealthy and intelligent classes for the benefit of the people. When they begin to govern for their own benefit they pervert aristocracy into oligarchy. A true democracy is a government by the whole body of citizens for the benefit of the people. When for any reason whatever they pursue some less complete or more shortsighted end, they pervert democracy into demagogy. These dangers are as serious today

as they were when Aristotle called attention to them two thousand years ago.

It was for the purpose of avoiding these dangers that many publicists recommended a sharp separation of the executive, legislative, and judicial departments of the government. If one group of men controlled public business, another made the laws, and a third supervised their administration, it seemed unlikely that any one of the three groups could manage the affairs of state for its own selfish purposes. This division of the powers of government, with the resulting system of "checks and balances," was a favorite device of English statesmen in the seventeenth and eighteenth centuries. It was warmly commended by Montesquieu. It found expression in American colonial charters. It was carried out quite fully in the Constitution of the United States. The framers of that instrument hoped that these checks and balances would prevent the use of the powers of government in behalf of any single dominant politician or group of politicians.

To a large extent they were successful. They created a government, strong enough to do the work required of it at home and abroad, which has lasted for a century and a quarter without becoming either a tyranny, an oligarchy, or a demagogy.

They enabled us to avoid the charted rocks and shoals on which other ships of state have been wrecked. But there was an uncharted shoal that they did not avoid—a form of perversion of popular government of which they knew nothing, and which has been a serious and increasing menace to our institutions. This is the perversion of party.

The word "party" has two quite distinct meanings. It may be an organization whose primary object is to promote certain measures and policies, and which seeks to place its members in office as a means to that end; or it may be one whose primary purpose is to secure office for its leaders and rewards for their followers, valuing measures and policies according to their utility in promoting that result. The former represents the legitimate function and use of party; the latter, its terribly frequent perversion.

Writers like Elihu Root or Abbott Lawrence Lowell habitually think of parties in the first of these two senses. According to Mr. Root, the essential thing which the party system does is to organize public opinion so that the important issues can be squarely presented to the citizens at successive elections. The casting of a vote is but the last and often the least important part of the

citizen's political activity. If each man went to the polls on election day to vote for the candidates he regarded as best or for the measures that he deemed most important, the votes would be so scattered that nothing could be done. Preliminary organization is needed to make this vote effective; to determine what measures interest a large part of the citizens instead of a small part, and what men will command confidence as advocates of those measures. It is by their influence within such parties in helping to make up the statements of principle, even more than by their vote at elections in determining which party is to prevail, that intelligent men contribute to the work of democratic government. This view of Mr. Root has been illustrated and in some respects supplemented by the pregnant phrase of President Lowell in which he compares politicians with brokers. "The process of forming public opinion involves bringing men together in masses on some middle ground where they can combine to carry out a common policy. In short, it requires a species of brokerage, and one of the functions of politicians is that of brokers. Perhaps it is their most universal function in a democracy."

But the actual party organizations as we see them at the present day seldom conform fully

to the descriptions of Mr. Root or Mr. Lowell, and often depart from them very widely. It frequently happens that the chief purpose of parties is to utilize the offices of the country as a means of power and influence and livelihood for the party leaders. They seize upon principles and embody them in the party platform, not on account of the public importance of these principles in securing national prosperity, but on account of their private importance in attracting votes to the organization. The main object of such a party is the control of the government for its own purposes, rather than the use of the government for what it deems to be the needs of the people. When a party has taken this shape the politician is no longer a broker in opinions; he is a broker in offices, in appropriations, in privileges.

Any one who looks at the history of party politics in the United States in recent years will see to how great an extent this second meaning of the term "party" has supplanted the first. I propose in this lecture to trace the development of this perverted conception of party and to show the evils which have resulted from it. In the next lecture I shall discuss some of the remedies for this evil which have recently been introduced or advocated. In the concluding lecture I shall try to

show what changes in our political life are needed for the successful operation of these remedies.

If the men who in September 1787 signed the proposed constitution of the United States had returned to the scene of their labors in September 1912, they would have been astonished to find that only two alterations had been made in their original work. By the Eleventh Article of Amendment to the Constitution, jurisdiction over suits brought against a state by citizens of other states or of foreign countries had been taken out of the federal courts. By the Twelfth Article the presidential electors, in voting for two persons, were compelled to specify on their ballots which they named for president and which for vice-president. This was all. The other so-called Amendments to the Constitution were supplements rather than amendments. They dealt with things outside of the original scope of the instrument. Some of them were trivial in their effects, some were of far-reaching importance; but whether trivial or important, they did not alter the machinery of federal government which was provided in the Constitution itself.

Since the date named there have been two

further changes in our constitutional machinery which are of somewhat greater importance than those that I have named; one removing restrictions upon the levy of direct taxes by federal authority, and the other requiring that United States senators be elected by the people of the several states instead of by their legislatures. Yet even when these changes are taken into account, the alteration is small in comparison with the size and importance of the body of the instrument.

To this permanence of constitutional machinery I doubt whether the history of any other active and growing state can offer a parallel. Certainly no democracy of ancient or mediæval times can show anything like it, nor can any contemporary state of Europe point to a similar experience. During a period in which the Constitution of the United States remained virtually unaltered, England had by successive acts changed almost beyond recognition the manner of election of one house of Parliament and the range of powers of the other; France had made at least seven radical breaks in the continuity of her government, with corresponding changes in her constitutional provisions; the Holy Roman Empire had gone to destruction, and had gradually been reconstructed into a new Germany and a new Austria; Russia

had made vigorous and partially successful attempts to reorganize its political system. It has been and is a matter of perpetual wonder that a group of men with limited experience of public affairs, chosen somewhat hurriedly and hampered at every stage by the necessity of compromise in order to get any constitution at all, should have created so enduring a structure.

But while the machinery of the Constitution has remained unaltered, the working of that machinery has changed radically. If James Madison came back today he would find President and Congress and courts elected or appointed in the same ways and clothed with substantially the same powers that were contemplated in the debates of the Constitutional Convention. But side by side with the familiar names and authorities of these offices he would find a number of unfamiliar names and authorities of equal importance. He would hear of platforms and primaries, of caucuses and nominees, of conventions and bosses. He would be confronted with a strange set of powers and restrictions, nowhere mentioned in the Constitution, but coördinate or at times superior in practical importance to the powers and restrictions which the Constitution itself provided. Most of these new names would mean little or nothing to

his mind. The few that he did understand, like "nominee," would seem like appalling importations from the effete monarchies of Europe. He would find himself in a country whose legal forms of government were familiar but whose extra-legal customs and habits of government were wholly strange.

The anomaly itself is startling; but the reasons for the anomaly are quite simple. The framers of the Constitution had arranged with great care and skill the mode of election of public officers and the duties of those officers after they were chosen. They had not attempted to arrange in any way the mode in which these officers should be nominated or the pledges that might be exacted of them before they were chosen. A remarkable instance of this is seen in the provisions regarding presidential electors. It was the obvious expectation of the Constitutional Convention that the members of the electoral college would exercise independent judgment in the selection of candidates for president and vice-president, instead of merely ratifying a nomination which had been prepared for them in advance. It took but four, or at most eight, years to show how futile was that expectation. There may have been a few people who were willing to give the electors discretionary

power to use their best judgment in voting for a president. The great majority wished to know in advance the names of men for whom the several electors were going to vote. They insisted that this matter should be settled before the electors were chosen instead of afterward. They wished their representatives in the electoral college to be pledged to vote for the candidate they liked best.

This change was gradually followed by another of the same character. The old theory of representative government was that the citizens in each district would send to the legislature a man in whose judgment they had confidence, in order that he might discuss with other members the questions that came before that body and then vote in the way that he thought wisest. This was what the framers of the Constitution expected. But the people were not satisfied with this way of doing things. They had ideas of their own on public questions. They wanted to know which way a candidate for Congress was going to vote on the subjects that were likely to come up for discussion. They often preferred to cast their ballots for a second-rate man who would reflect his constituents' opinions rather than for a first-rate man who might look at things differently. Measures, not men, was the cry. Not content with having their

electors instructed in advance as to their vote for president, they insisted on having their congressmen pledged in advance as to the legislative measures which they would support.

This change took place more slowly than the other, because it is relatively easy to determine what names are coming before the presidential elector for his choice, and relatively hard to determine what measures are coming before the congressman for his vote. Nor did it come with equal rapidity in all parts of the country. The change was slower where the old-fashioned aristocratic traditions were stronger. It was slower in the East than in the West, slower in the South than in the North. It is only within the present generation that it has become substantially complete. In my undergraduate days it was still a debated question whether a congressman should vote according to his own judgment or that of his constituents; and on a memorable occasion in 1878 Mr. Lamar of Mississippi, one of the last and best of the political leaders of the old school, courageously defied both the caucus of his party and the public opinion of his district by voting as he thought best. But as a general rule of political practice our congressmen as early as 1850 found themselves deprived of the right of independent

judgment on main issues almost as completely as were the presidential electors.

But who should nominate the candidates or define the issues to which congressmen should be pledged?

The actual work of nominating candidates for president was at first done by the members of Congress at the last session preceding the election. The Federalists did this in 1796; the Democrats followed their example in 1800. For twenty years thereafter the members of the electoral college, whatever their personal preference, found themselves pledged in advance by an obligation, which had no constitutional sanction but which was too strong for them to break, to vote for the man that had been named by the members of their own party in the previous Congress.

This way of doing things was not liked by the people. It was felt to be against the spirit of the Constitution. But as long as there was active opposition between Federalists and Democrats, the tactical advantages of having a strong party organization were so great that no one ventured to break away from the custom. When, however, the old parties began to dissolve after the close of the War of 1812 public sentiment against nomination by congressional caucus made itself increas-

ingly felt; and the year 1824 witnessed the death of this extra-constitutional agency.

The downfall of the caucus was regarded as a great triumph for constitutional principles. The whole theory of the Constitution demanded that the executive and legislative powers be kept separate. The attempt of members of Congress to name the men for whom people should vote for president was a violation of this principle; the abandonment of that attempt was hailed as a triumph of good government. The example that was set in Congress was rapidly followed if not actually anticipated in the legislatures of the several states. Up to 1820 candidates for the governorship were frequently and perhaps habitually nominated by a caucus of the representatives of the party in the previous legislature. In the decade that followed the caucus gave place to the nominating convention.

All this movement was, outwardly at least, an effort to conform to the principles of the Constitution. It is, however, very doubtful whether it contributed to good government. It had the effect of transferring the power of presidential nomination from the congressmen to the men who nominated the congressmen. It did not destroy the connection between the two branches of the

government. It simply substituted a subterranean connection for an open and public one. Previously men had "pulled wires;" afterwards they "laid pipe." The framers of the Constitution had tried to prevent the executive and the legislative departments of the government from influencing one another unduly. They succeeded in preventing the responsible officers of the government from exercising that influence, but by the very act of so doing they transferred it to less responsible hands—to the hands that directed the machinery of nomination.*

From the very first there had been astute observers who saw how easy it was for a small and unscrupulous group of men to control nominations in either party and restrict the choice of the voters to candidates of their own liking. In this, as in other byways of American politics, Aaron Burr was a pioneer. Burr worked in many states and by many means; but the most enduring monument of his political sagacity was Tammany Hall. When the Society of Saint Tammany was founded in 1789 its purposes were chiefly social and

* This idea has been worked out with great care by H. J. Ford in his *Rise and Growth of American Politics.* Much valuable material on the subject is contained in Gustavus Myers' *History of Tammany Hall.*

patriotic. Under Burr's tutelage it became a dominant power in party politics. The leaders understood the theory as well as the practice of the means they used. "The nominating power," said Teunis Wortman in 1809, "is an omnipotent one. Though it approaches us in the humble attitude of the *recommendation,* its influence is irresistible. Every year's experience demonstrates that its recommendations are commands; that instead of presenting a choice it deprives us of all option."

The lesson taught in New York had been learned by politicians of other cities and states. The dethronement of the congressional caucus in 1824 simply opened the way for the application of Aaron Burr's methods to the affairs of the nation as a whole.

In this widened application of the principles of Tammany Hall, Martin Van Buren was the leader. The effect of this change upon the character and position of the presidential office was soon seen. Down to the time of Andrew Jackson every president had been a man with a policy of his own. From the time of Van Buren until the Civil War, every president was to a greater or less extent a creature of the party organization. The seven occupants of the White House who preceded

Van Buren were men of distinction. The seven who followed him were not. So far was the convention system from expressing the popular will that it prevented a man like Henry Clay, idolized by his party and admired by his opponents, from realizing the object of his ambition. Bitterly did Clay exclaim at last that he was made the candidate of his party for president whenever it was going to be defeated and was deprived by chicanery of the nomination whenever the election of the Whig candidate was certain.

But how was it possible for a few politicians to control conventions and nominations, in defiance of the wish of the majority of their party? I can only reply as the pessimistic Scotchman replied to the minister who assured him that God was stronger than the devil. "The devil," said the Scotchman, "makes up for his inferior strength by his superior activity." Men who could not themselves have been elected to high public office could by activity and trickery control the machinery which nominated men for office. Both state and nation regarded nominating conventions as something extra-constitutional. The result was that the law had for many years very little control over the election of delegates or the proceedings of delegates after they were elected. In cities like

New York the professional politicians made use of barefaced fraud and sometimes of actual force to achieve their ends. In other places they were content with trickery. In still others they found a skilful use of the arts of persuasion sufficient. But whether the contest was decided by force or by fraud, by trickery or by persuasion, the professional politician and his henchmen under him, acting all the time and thoroughly organized, were in these early days at least more than a match for a much larger body of independent citizens who had their own business to attend to and could devote but moderate time to the devious ways of politics.

What rewards were offered to the men who engaged in this sort of subterranean political activity?

A few gained high office, but only a few; of the men who have occupied the presidential chair since the time of Van Buren, not more than two have been active in the details of political management. A somewhat larger number of our American politicians have been so constituted that they were content to do the work for the mere enjoyment of the power it gave them. It was reward enough for them to be in control of the affairs of their city or state, whether the public recognized their

dominance or not. But to the majority of the leaders and to an overwhelming majority of their followers, some more tangible compensation was necessary. If they gave their time to politics they must be paid for it. If they were successful in placing their candidates in office they expected to be rewarded for their success;—out of the public treasury, if necessary.

At the beginning of the nineteenth century almost the only chance for such reward was found in municipal offices and municipal contracts. The mayor, the board of aldermen, and even the judges, of a city had it in their power to give valuable favors. The fundamental principle on which Tammany appealed for support all through the nineteenth century was that membership in the Society and work for its candidates was a means to establish a claim for such favors. A municipal official, said Tammany, owed his primary obligations and duties to the part of the community that nominated and elected him. His duties to the rest of the community were of little or no importance. The same theory was applied to a greater or less extent in almost every city. The possibility of using state offices as political rewards developed more slowly; but with the establishment and development of public works on a large scale, the

patronage and contracts and franchises which were at the disposal of New York or Pennsylvania became pecuniary prizes; prizes of great value to a politician who could nominate a governor or a legislator that was weak enough to be dependent upon him. By the year 1825 the prostitution of state as well as municipal offices to party purposes had become a familiar spectacle.

National politics were kept clean for a longer period. Until the beginning of Andrew Jackson's administration federal offices had not been regarded as a field for the emolument of the professional politician. There had been instances where corrupt men had misused national offices, but they were exceptions and were regarded as exceptions. Unfortunately, just at the very moment when the overthrow of the caucus system left the field free for the intervention of the professional politician in national politics, two events occurred, one chargeable to the Whigs and the other to the Democrats, which distinctly lowered the character of both legislative and executive branches of the national government. In 1828, Congress passed a tariff law—the tariff of abominations, as it was popularly called—which was in many of its provisions so clearly a sacrifice of the general interests of the country to the special interests of individual

districts that Congress seemed for the time being to have made politics rather than statesmanship its ideal. In the years immediately following, the President removed a large number of federal office-holders, although they had done their duty properly, in order to be able to give their offices to his political supporters. In the forty years before Jackson's election there had been but seventy-four removals from office. In the first year after his election there were two thousand. Jackson himself was perfectly frank as to the character of this transaction. He was ready to accept and act on Marcy's phrase, "To the victor belong the spoils." Patriotic and public spirited though he was, he failed to see the evils which would result from the adoption of the principle that public office was a reward for partisan service.

The control of the federal offices as a prize of successful activity gave the party leaders a substantial addition to the rewards that they were able to offer their followers. It was not merely the immediate money value of the positions that counted. The incumbent of a post office or a collectorship, no matter how it was obtained, had a certain social standing which was more valuable than the salary of the office. It was a visible result of successful endeavor, and one of which he was

proud. Moreover, the control of offices was a prize whose value was enhanced as the country expanded. Each decade has seen a growth in the number and importance of our public functionaries. The aggregate of salaries paid by the government has increased much faster than the population. The aggregate influence of the officeholders has increased even faster than their salaries. For over half a century the administrative offices of the United States, outside of the army, the navy, and the judiciary, continued to be treated as rewards for party services; and even within these three departments political influence made itself felt to the advantage of the politicians and their friends and to the detriment of the public.

Thus was established, in spite of the Constitution, that connection between legislature and executive which the framers of the Constitution had sought to prevent. The administrative officers of the government had received their places as rewards for their services to the party organization. The members of the legislative branch owed their nomination and election to office to the same consideration. The executive could not dictate to the legislature, nor could the legislature dictate to the executive; but each was bound to the nominating power which was behind them by ties of

gratitude for the past and of apprehension for the future.

And the list of men who were thus bound to the party organization did not end with the office-holders and legislators. Every one who had benefited by a partisan measure was interested to keep the men that had passed it in power. Each valuable franchise or lucrative subsidy which was granted enlisted the recipient in the service of the party which gave it to him. The less the grant could be justified on grounds of public policy, the more abject was his dependence on the politicians for its continuance. The gravity of this danger in national politics did not become fully apparent until after the Civil War. Prior to that time there had been a good deal of unwise special legislation by the states and some by Congress; but it had seldom taken such a shape that it could become a party issue. The years from 1850 to 1857 saw a great many wasteful grants of public land in aid of railroads; but this was an abuse which Democrats and Republicans had vied with one another in promoting, and for which North and South were equally responsible. Neither organization and neither section could point the finger of scorn at the other.

But the course of tariff legislation after the

Civil War was such that large financial interests became concerned to keep the Republican party in power. During the war the North had imposed heavy internal revenue taxes on all manufacturing industries; and it had at the same time laid duties on imports considerably higher than the internal revenue taxes. The amount of protection actually given was not represented by the whole duty, but by the difference between the duty on things produced abroad and the internal revenue tax on the same things produced at home. After the close of the war nearly all the internal revenue taxes were abolished. It was expected that duties on imports would be correspondingly reduced at the same time. Measures to this effect were introduced in 1867. They failed of passage, not because there was any difference of opinion on the general policy, but because the Senate and House could not agree on details.

With the internal revenue tax abolished and the duty on imports maintained, many industries enjoyed an amount of protection which had never been intended. The immediate result was a great apparent prosperity in those particular lines of industry. The secondary result was in many instances overproduction and disaster. Whichever way the law worked, the representatives of

the business in question found themselves in possession of plausible arguments against a change. "Will you destroy an industry which employs so many men at high wages?" said the prosperous ones. "Will you add to the burdens of an industry which is already in trouble?" said the unprosperous ones. The fact was that the abnormal degree of protection had created an artificial set of industrial conditions, and that when those conditions were removed some one was bound to suffer.

The alignment on the question of tariff reduction was not at first a strictly partisan one. The Pennsylvania Democrats were for the most part protectionists. The Western Republicans were in many instances free traders. But as time went on the Republican party became more and more committed to the maintenance of the tariff in substantially its existing shape; or, more accurately, to the principle that duties should not be reduced unless the representatives of the protected industries themselves approved. Under such circumstances the Republican party organization could count on the support, not merely of the officeholders it had rewarded or the congressmen it had nominated, but of the industries to which

it had given protective duties that were or appeared to be exorbitant.

In a somewhat similar way the silver mining interests became affiliated with those who controlled the councils of the Democratic party, and more than once brought the monetary system of the country into grave financial peril as a means of promoting their own particular industry. I do not mean that all or a majority of those who advocated free silver coinage were consciously intending to sacrifice the interest of the whole to that of the part. Most of the Democratic leaders had persuaded themselves that free silver would be good for the country as completely as the Republican leaders had persuaded themselves that a high protective tariff was good for the country. It is extraordinarily easy for a man to become convinced that a thing that will put him and his friends in public office is good for every one else.

This was what constituted the most dangerous feature of the whole situation. For under influences like these, good men as well as bad lent themselves to that perversion of the party system which made them brokers in privileges rather than brokers in opinions and led them to govern in the interest of special classes rather than in the interest of the whole body politic.

V

THE REACTION AGAINST MACHINE CONTROL

In the previous lecture I explained in some detail the causes which led to an abnormal development of party government in the United States. All will admit that this development has been attended with grave evils. Our cities have been made the prey of political organizations with rather notorious frequency. Our states have at times fared no better. In the administration of our national government there have been fewer open scandals, but there has been much dangerous partisanship.

Though people have recognized the evils, they have not recognized how deeply they were rooted in our system of government; and when they have tried to correct them they have usually been content with superficial or partial remedies which did not go to the heart of the matter. There have been frequent movements for reform in individual cities and states. There has been a wave of agitation against machine control of politics which has

spread over the country within the last few years. But the great majority of the proposed reforms deal with symptoms and manifestations of the evil under which we suffer, rather than with the underlying causes that produce that evil. They offer palliatives rather than remedies.

The first and simplest palliative for the misuse of party government is to put the other party into office. "Turn the rascals out!" is the popular cry whenever any extraordinary breach of public trust is discovered in city or state. This is undoubtedly a good policy as far as it goes. If politicians think that they are going to be turned out of office when they are found to have abused public confidence, it will make them more careful to avoid flagrant or notorious misuse of their power. This penalty therefore has great use as a deterrent. As a remedy its value is less clear. When the representatives of one party are turned out the representatives of another party come in—sometimes immediately, sometimes after a brief spasm of nonpartisan government. The old political machinery is at hand for the use of the other party. The old temptations are there, and the old opportunities are there. The public has simply substituted one political machine for another. It is better off, in so far as the new incumbents are

frightened by the fate of their predecessors; it is worse off, in so far as the new incumbents are hungrier than their predecessors. Whether the net result will be good or bad depends upon the circumstances of each individual case. As a general rule, however, the policy of turning the rascals out while leaving the organization of the body politic unchanged has an outcome which has been aptly described in the eleventh chapter of the Gospel of St. Luke:

"When the unclean spirit is gone out of a man, he walketh through dry places, seeking rest; and finding none, he saith, I will return unto my house whence I came out.

"And when he cometh, he findeth it swept and garnished.

"Then goeth he, and taketh to him seven other spirits more wicked than himself; and they enter in, and dwell there: and the last state of that man is worse than the first."

Some who see the futility of substituting one party machine for another try to go one step further back, and strike at the sources of the corruption by penalizing the men who have benefited by bad government. "Punish predatory wealth!" is the cry of these reformers. It was this that gave force to the Granger movement in

1870, when the farmers of the upper Mississippi valley were aroused by the misuse of the powers of the railroads to take the matter of legislation into their own hands and pass drastic laws concerning rates. It is this same cry which makes itself heard in both Democratic and Progressive parties today.

But the punishment of predatory wealth is an easier thing to promise than to perform. The wealthy depredators almost always manage to turn their profits into hard cash months or perhaps years before the public is aroused to any serious action. By this time the only persons that can be reached are the small investors, who have had no part in the ill-gotten profits and whose only sin is that they have been too easily deceived. Alas for these small investors! "Better a wrong victim than none at all," says the public; "we do not know who is to blame, but we know that somebody ought to suffer;" and the politician takes his choice between sacrificing the interests of the investor as a means of securing his own popularity, or levying blackmail upon the investor as a price for not sacrificing him.

For predatory poverty is just as dangerous a thing as predatory wealth—a little better, perhaps, in that it has the interest of a larger section of the

community in view; a good deal worse, in that its acts are habitually blinder and the amount of aimless destruction larger. Over and over again it has happened that the politicians, by destroying the profits of capital in obedience to a wave of popular feeling, have interfered with the development of the whole community for many years to come. This was the case in the upper Mississippi valley at the time of the Granger movement. Laws passed in 1873 and 1874 hurt the railroad investors by depriving them of their profits; but they hurt the shippers and the general business interests of the states far more, by preventing for five years that investment of capital in railroads which was needed to furnish adequate transportation for farm products. This experience seems likely to be repeated at the present day, when arbitration boards are constantly compelling railroads to raise their wages and the Interstate Commerce Commission is constantly refusing to allow them to raise their rates. The effects on transportation industries in discharge of men and curtailment of service are already deplorable, and seem likely to grow worse in the immediate future.*

* The last two sentences are left as they were written in the spring of 1914. Since that time the Interstate Commerce Commission has taken action allowing the railroads certain

The policy of turning the rascals out means a change of hands that hold the reins of party government. The policy of punishing predatory wealth means a change in the direction in which those hands drive us. Neither of these changes goes far enough to free us from the political evils under which we suffer. Neither of them solves our problem as a whole. They are emotional remedies rather than practical ones. They serve to punish an individual offender—sometimes the right one, sometimes the wrong one; they do not serve to reform the evil inherent in our political system.

There are, however, several measures which have been tried in the past that modify the system itself in certain essential particulars and are offered by their advocates as practical remedies for the diseases of the body politic. These measures may be grouped under five heads: 1. The separation of national from local issues. 2. A nonpartisan civil service. 3. The substitution of direct for indirect methods of legislation. 4. Direct nomination by the people. 5. Assurance of direct responsibility to the people by a system which allows the voters to recall an official who for any

needed increases of rates; and the whole industrial outlook has been thereby improved.

reason ceases to carry out the views of those who elected him. The first two of these have been fully tried; the third, measurably so. The fourth is still in the experimental stage; the fifth has hardly passed beyond the status of a project. I propose to give a brief analysis of each of these remedies, to show what it has accomplished or is likely to accomplish, and what indirect evils and dangers, if any, it brings in its train.

First in order of historical development is the separation of national from local issues. This has been so generally accepted as a principle by thinking men of the present generation that it is hard for some of us to realize how recently it originated, or how radical a proposition it seemed fifty years ago.

In my own boyhood it was assumed that every practical man belonged either to one party or to the other, and that under all ordinary circumstances he voted the whole party ticket, national, state, and local. In aggravated cases he might "scratch" an objectionable candidate without losing the right to consider himself a reputable member of the party and to ask such favors of the party manager as reputable members might expect. But to vote for the candidate of the other

party was an extreme of independence which relatively few ventured to practice.

When this feeling prevailed it was almost impossible to prevent party managers from nominating bad men for local offices at any time when national issues were important. The more fundamental the national questions involved, the surer did the political managers feel of being able to cast the full party vote for local candidates, whether good or bad. "Matters of national policy," they would say to the voters, "are of so much greater moment than anything which a state official can accomplish within his own limited sphere of good or harm that you are bound by the strongest considerations not to weaken the party as a whole by the threat to bolt a part of the ticket." The Constitution had attempted to separate as far as possible the activity of the national government from that of the separate states and cities. The effect of the party organization was to bind them together.

Loudest in their cry for the obligations of party regularity were the politicians of New York City. But it was in New York City first of all that the reaction in favor of independent voting on municipal issues developed. In the years from 1867 to 1871 the Tweed Ring had plundered the public

on so gigantic a scale that all good citizens felt compelled to unite to overthrow it. In spite of this union of good citizens, the Ring felt so secure in its position as a representative of democratic regularity that it openly defied public opinion inside its own party as well as outside. In 1871 the issue between party regularity and good municipal government was clearly drawn; and the side which stood for good government won decisively. The defeat of the Ring was followed by the indictment and imprisonment of its leaders. It was an object lesson of the first importance in the possibility and the necessity of independent municipal voting.

The lesson was taken to heart in other cities besides New York. The election of 1871 was the beginning of a radical change of sentiment regarding the obligations of party regularity in connection with municipal affairs. Slowly but surely people came to the conclusion that the mayor of a city was first and above all things else a man engaged in conducting a number of important lines of business for the public benefit; that the primary question was whether he was likely to be honest and efficient in doing the business in hand; and that his attitude on the tariff or the currency, however important in determining whether you

wished to send him to Congress, had little or no importance in determining his fitness to be mayor. Forty years ago these were novel arguments. The man who advanced them was considered an idealist. People admitted their force as theories, but only acted upon these theories on rare occasions, when the party leaders had been detected in some peculiarly atrocious attempt to sacrifice the public interest to that of their friends and associates. Today they are accepted in most parts of the country as practical foundations of good local government. While it is still true that the voters in a large number of towns prefer to vote the straight party ticket, local as well as national, the manager who presumes too much on this preference learns to his cost how slight is the hold of party regularity in local issues. Many cities, by adopting the commission form of government, have tried to make municipal politics permanently independent of party organization; and the advantage of accomplishing this result has been so great as to outweigh the serious disadvantages, both in theory and in practice, which attend the operation of the commission system.

This change in sentiment has been rendered much more effective by two recent changes in political practice.

The first of these is the separation of the dates of local and national elections. In the old times it was customary in most parts of the country to vote for national, state, and local candidates on the same day, if not on the same ticket. This of itself made the sentiment of party regularity stronger than it is at an election where people vote for local officers only. The importance of the national issue made the local issues look relatively unimportant. The politicians took full advantage of this; and they also developed complex systems of trading votes in which members of both organizations worked hand in hand to sacrifice the independent nominees of each party and elect those who were subservient to their respective machines. Separation of the dates has made it practicable to separate the issues and has limited the opportunities for trading votes. The old argument about regularity is far less effective when local and national elections come on different days.

Another change which is bound to work in the same direction is the election of United States senators by the people.

In the old days it was never possible to elect a legislature on the basis of state issues in a year when a United States senator was going to be chosen. You might approve the position of the

Republican party in your state on canals or on prohibition, or on economical management of the state treasury, or any one of a dozen local issues. But if you wanted to see a Democrat elected to the United States senate you had to vote for a Democratic candidate for the state legislature, even if he was bibulous, extravagant, unprogressive, and averse to building the canals you wanted. His chief business, after all, was to elect a United States senator. A legislature has to elect a senator twice in six years. In those states, therefore, which elected their legislatures for two years at a time, two out of every three legislatures were chosen on national issues and only one of the three on local ones. This gave the leaders in party politics a stronger hold over nominations and elections to the state legislature than they would otherwise have possessed, and had an effect on the conduct of state politics and state business far more serious than has generally been recognized. Prior to the last amendment to the Constitution, complete separation of state and national issues in politics was impossible. Today it rests with the voters themselves whether they will make it possible or not.

It may be said of the separation of local and national politics that it is unqualifiedly good in

principle. It, however, stops far short of being a complete solution of our problem; because the prizes of either national or local politics, taken separately, are sufficiently large to furnish remuneration to those who can control the nominating machinery in either field. The separation deprives the politicians of one effective weapon in forcing machine candidates on an unwilling electorate. But they have other equally effective ones left at their command.

The second means of preventing the perversion of party government has been the series of measures known as civil service reform, imposing certain rudimentary tests of fitness upon candidates for office and preventing the removal of officeholders for political reasons.

When Marcy and Jackson advanced the theory that federal offices ought to be given as a reward for political activity, they had no idea of the damage that they were doing. The force of federal officeholders in 1830 was small in number; the problems with which they had to deal were simpler than is the case today. There was some plausibility in the arguments used by Jackson and his followers as to the danger of allowing these officeholders to form an official class of permanent appointees, removed from the mutations

of politics. But the practical working of the spoils system was far worse than any one could have anticipated. If people received and held offices as a reward for political activity, it meant that they were encouraged to serve their party at the expense of the government. This not only led to the appointment of men to positions for which they had no special training or fitness—an increasing evil as the service became more complex—but it encouraged many of them to neglect their duties and to connive at the plunder of the public treasury by men who were influential in the party. The $75,000,000 of revenue frauds discovered in the second administration of President Grant were but the logical consequence of the Jacksonian principle that the spoils belong to the victor.

Organized agitation for reform of the federal civil service began in 1867. This movement was at first made the object of ridicule. But it gathered strength when people saw what glaring frauds were being perpetrated under the old system. The danger of regarding appointment to office as a matter of party favor was strikingly brought home to the people in 1881, when Guiteau assassinated President Garfield as a matter of private revenge for his failure to get the position he wanted. Even then it is doubtful whether the

Republican politicians who were in control of Congress would have allowed any serious change in a system which contributed to their power and to their friends' profit, except for the strong indications that the Democrats were going to be successful in the presidential election of 1884. Fearing that they would lose control of the federal offices in any event, the Republicans in 1883 made a virtue of necessity and passed a bill establishing a classified civil service with preliminary examinations and permanence of tenure. At first only fourteen thousand offices were included in this classified service; but successive presidents have made use of the authority given them to extend the scope of the provisions of the Act of 1883, so that about three fifths of the four hundred thousand federal employees are now subject to its provisions. In local administration the reform has not made corresponding progress; but a few states and a considerable number of municipalities are now following the example of the federal government.

Civil service reform, like independent municipal voting, is thoroughly good as far as it goes. Its direct effect in promoting good government is, however, limited. It applies almost entirely to the lower ranks of the service. It does not apply to

the positions that give a man power to dominate the policy of the country. The really important federal offices are included for the most part in the forty per cent of unclassified places, not in the sixty per cent of classified ones. Those who have observed the working of the system most carefully believe that the chief good that we have accomplished is an indirect one. We have broken down the theory that offices are to be regarded as spoils. The people who continue to view public office in that light no longer venture to avow their heresies openly.

The two measures thus far described restrict the power of the politicians by limiting the patronage at their disposal. The three others go more to the heart of the matter, and strive directly to curb the power of party organizations in the making of laws, the nomination of candidates, or the action of officials after they have been nominated and elected.

The first of these means is the system of direct legislation by the people; either through the medium of state constitutions or by the agency of the referendum and the initiative.

The popular distrust of legislation by representative assembly dates from about the middle of the nineteenth century. Down to that time it had been

supposed that this was the natural method, and in fact the only good method, for making laws in a large commonwealth. In a small city all the citizens can attend an assembly or town meeting, can hear measures discussed, and can vote upon them after full deliberation. The vote will represent more or less adequately the public opinion of the community. But in a large city this is difficult; and in a state or nation it is obviously impossible. The system of representative government was devised to meet this difficulty. It allows people in each district to select the man whom they regard as best fitted to act as their proxy. These representatives can meet with one another, to discuss the proposed measures of common concern and decide what is best for the community; and their votes, taken after such discussion, ought to represent the general sense of the state or nation in the same way that the vote of the town meeting represents the general sense of the borough or village. Such was the theory of representative government as it was held with little question until about 1850.

Such also had been the practical working of the system in England in the days when Parliament was establishing its supremacy. Down to the seventeenth century the English Parliament was

essentially a place where representatives of different districts and different interests met in order to shape their opinion intelligently on the affairs of the kingdom. It created a national public opinion in the same way that a town meeting creates a local public opinion. There was no other adequate agency for this purpose. There were few newspapers. There was little opportunity for public information of any kind regarding the conduct of national and international affairs. Had it not been for the necessity of calling Parliaments in order to levy taxes, the king might have taken advantage of this public ignorance to undermine the liberties of different parts of the kingdom separately. The country gentlemen who went to Parliament found out what was going on. They deliberated with representatives from other parts of the kingdom and made plans for common action. When they went home they told the people who had sent them what new measures were being proposed or enforced and what they ought to think about them.

The system of public law which was framed by the English Parliaments was an expression of the public opinion thus formed, and derived its essential force from the fact that the sentiment of the nation was behind it, rather than from the fact

that it had been discussed by two houses, one of which was a representative body. But it was natural enough that people who compared the public law of England with that of France or Austria and saw how much better it was should overvalue the machinery that produced it, and seek the cause of the excellence of English law not in the intelligence of English public opinion but in the details of its method of legislation. Montesquieu himself fell into precisely this error.

The men who framed our state and federal constitutions made the same mistake as Montesquieu, and were much concerned to follow in detail all the forms of English Parliamentary organization. We tried to establish two legislative chambers in every important political unit. It is because Parliament had a House of Lords as well as a House of Commons that so many of our municipalities, scattered all over the nation, have a board of aldermen as well as a court of common council.

But it gradually appeared that these assemblies did not fulfil the function which the theory of representative government assigned them. They were not places where the best men from each community went to make up their minds about public questions. The representatives were sent with more or less specific instructions. They were

chosen for the purpose of putting into effect certain ideas and principles already expressed in the party platform. The telegraph and the printing press have deprived parliaments and congresses of their function as agencies for the making of public opinion. It was almost always formed before they assembled.

But while the deliberative power of such assemblies has been diminished, their law-making power has very greatly increased. The authority of Parliament in the sixteenth century was precarious; even in the seventeenth it was by no means unquestioned. A parliamentary statute or ordinance which did not have the will of the people behind it was a plaything for the king to toy with as he liked. Today an Act of Parliament in England or of Congress in America, even when distasteful to the majority of the people, is a thing which cannot easily be disobeyed or ignored.

This change of conditions, by which parliamentary assemblies ceased to make public opinion and began to make laws which were independent of public opinion, has rendered modern representative government, in its practical working, a very different thing from what the theorists have contemplated. It has made it worth while for the professional politician who is pursuing selfish ends

of his own to see that the men elected to positions in such a body are those that he can influence, and that the statement of principles which the public has exacted of them is such as he can approve. Both of these opportunities have been given him by his control of the nominating convention. If it is completely under his hands he can dictate both the candidates and the platform. If it is partially under his hands he can at least prevent the nomination of candidates of outspoken independence and the adoption of platforms with inconveniently frank declaration of principles. In fact, it matters very little what the platform says, so long as the candidate is Mr. Pliable and not Mr. Obstinate. There are numerous precedents in American politics for ignoring the pledges of party platforms. In fact, the whole situation reminds one of the experience of an Ohio politician who tried to view the scenery of the Alleghany mountains from the platform of a Pennsylvania railroad train, instead of staying inside the car, as the rules required. When the conductor called his attention to the Company's rules, he asked sharply what a platform was made for if not to stand on. The conductor closed the discussion by saying, "You are a practical politician, Mr. Blank. You should know that a platform is not made to stand on; a

platform is made to get in on!" Of course it may happen that the political leaders, in their anxiety to make the candidate suit the organization, may fail to suit the people and therefore be defeated at the polls; but inasmuch as there is usually another party organization on the opposite side working for subservient candidates and machine-made platforms, this danger is not always so great as it appears.

That part of the work of legislative bodies which first caused popular dissatisfaction was their liberality—to use no harsher word—in granting valuable franchises to the politicians and their friends without adequate regard for the protection of the public. Even in the decades preceding the Civil War this practice aroused much adverse criticism; and in the years immediately following the war the power was so abused that constitutional provisions were adopted by many of the states which were directed specifically against this evil. It became customary to require corporations to be organized under general laws and to restrict or prohibit the grant of special charters and the special privileges which usually attach thereto.

This was the first step in limiting legislative powers. A second followed almost immediately thereafter. A new form of state constitution

became fashionable, much longer and more explicit than the old, which included a great deal of matter that was not in a strict sense constitutional law at all. A constitution, in the old and accredited meaning of the word, prescribes the powers and functions of the different departments of the government. These new-fashioned constitutions included a great many general laws regarding the conduct of corporations and individuals. Whenever a law of this kind was incorporated in a state constitution it had the effect of limiting the power of the legislature. If a great body of public and private law was thus made part of the constitution, this meant that the legislature had no authority to make any fundamental changes in the law except by the slow process of constitutional amendment, which required a submission of the proposed changes to a vote of the people.

These long American constitutions were severely criticised by European publicists, who said that we did not know what the word "constitution" really meant. This criticism was in some respects wide of the mark. The reason why our constitutions were made so encyclopædic was not that the people of the United States had wrong ideas as to what should be put in a constitution, but that they were unwilling to leave the legislatures free to vote

on certain important subjects, and therefore incorporated their views on these subjects in the constitution as the easiest way of tying the legislature's hands.

Within recent years they have found a more direct means of accomplishing the desired result by the introduction of the referendum. Under this system a legislature submits proposed changes in law to popular vote to determine whether they shall become effective or not. This mode of legislation originated in Switzerland. After many experiments in the different cantons it was incorporated into the Swiss federal constitution in 1874. Two decades later Switzerland supplemented the referendum by the adoption of the initiative, or right of proposal of laws by popular petition. Some of our states have for many years applied the principle of the referendum in a limited way. Certain classes of legislative acts, such as the contraction of state debts, or the selection of sites for public buildings, have in such states required confirmation by popular vote before they went into effect. In 1897 Iowa made this requirement general in regard to all grants of franchises of any kind whatever. But it was not until 1898 that the referendum was first adopted in its complete form by South Dakota. Since that time about

one third of the states have introduced it to a greater or less extent into their organic law.

With the adoption of the principle of the referendum, and the initiative which is apt to go with it, the abandonment of the old theory of representative government is complete. The legislature is now no longer an agency for framing public opinion and making the laws which public opinion demands, but a conference committee on the affairs of the state, one of whose duties is to submit drafts of proposed legislation to the people in order to see whether the majority of voters likes them. The power of the leaders of nominating conventions to secure the passage of such laws as they wish and the profits and emoluments incident thereto is by this means seriously impaired if not wholly destroyed.

But there are two other changes which are intended by their advocates to complete the overthrow of old-fashioned political machinery more fully than can be accomplished by the referendum or initiative. The first of these is the direct primary. Observing the evils which arise from nominating conventions, many of our reformers would give the people the opportunity to nominate candidates themselves. They would do away with representative assemblies for nomination as well

as representative assemblies for legislation, and would have the name of the party candidate decided by a majority of the popular vote within the party.

The direct primary is no new thing. It was tentatively introduced in Pennsylvania about 1870. Abandoned in the East except by a few municipalities, it was for two decades occasionally tried in the West and frequently in the South. But during these early years it was applied only to town or county nominations. The movement for state-wide primaries is a much more recent one. It has gained rapid headway in the past three or four years. In 1912 fifteen states held primaries to determine preferences for presidential candidates; and a considerable number of others used this agency to nominate candidates for governor, senator, or congressman at large.

Still more novel, and in some respects more radical, is the fifth and last proposal of the advocates of direct popular government. They would make it possible for a certain proportion of the voters to petition for the recall of an obnoxious or unpopular official, and compel the holding of a new election to see whether he is to be permitted to serve out his term of office. Many localities are experimenting with the system of the recall; but

it is too soon to say how far those that have tried it are satisfied with it, or how widely their example is likely to be followed. The plan is still in the experimental stage.

Regarding the success of all these more thoroughgoing plans for curbing the power of professional politicians, we may say what Ostrogorski, that acute and careful Russian student of American politics, says concerning the direct primary: "Neither the sanguine hopes of the reformers nor the fears of the bosses have been entirely justified. . . . Frauds are not prevented by the new system. Many bad candidates are defeated who would be nominated in convention, but the haphazard vote of the multitude rejects good men against whom a convention would not dare to come out." And after an enumeration of minor evils, all the more significant because of Ostrogorski's sympathy with progressive views and methods, he adds: "These unsatisfactory results of the direct primary cannot be considered as accidental."

Why these means have failed to realize the hopes of their advocates, and what more fundamental reforms in practice and in thought are necessary to make government by the people effective, are questions which I shall discuss in the concluding lecture.

VI

THE SEAT OF POWER TODAY

When party government was at its height the leaders of the organization had a decisive influence on the nomination of candidates and the passage of laws. Public opinion counted for comparatively little, except as an indirect deterrent of mistakes that might lose elections. The measures which I have described in the last lecture—the initiative, the referendum, the direct primary—were efforts to make organization count for less and public opinion for more. Why have they disappointed the hopes of their advocates?

Chiefly because it is impossible, except in grave emergencies, to make *unorganized* public opinion effective in practical politics. If, as Mr. Root well says in his book on The Citizen's Part in Government, all the voters went to the polls without previous discussion and cast their several votes for the candidates that each man liked best, the great majority of votes would be thrown away. "Human nature is such that long before an election could be reached some men who wished for the offices

would have taken steps to secure in advance the support of voters; some men who had business or property interests which they desired to have protected or promoted through the operation of government would have taken steps to secure support for candidates in their interest; and some men who were anxious to advance principles or policies that they considered to be for the good of the commonwealth would have taken steps to secure support for candidates representing those principles and policies. All of these would have got their friends and supporters to help them, and in each group a temporary organization would have grown up for effective work in securing support. Under these circumstances, when the votes came to be cast, the candidates of some of these extempore organizations would inevitably have a plurality of votes, and the great mass of voters who did not follow any organized leadership would find that their ballots were practically thrown away by reason of being scattered about among a great number of candidates instead of being concentrated so as to be effective."

We see this fact elucidated in the workings of the direct primary. Occasionally it happens that a man is so prominent or so conspicuously well fitted for the duties of the office that he can secure

votes enough to nominate him by the spontaneous impulse of his fellow citizens. But such cases are rare. A preliminary campaign is usually necessary. The man of ability who will not take the trouble to make such a campaign gets fewer votes than his less able opponent who has the time and money to spend in organizing his followers and creating a public sentiment in his behalf. It has become a proverb in certain states that any man who wishes to be chosen for office must incur the trouble of making two campaigns, one for nomination and the other for election. Political chicane has not been eliminated. It has simply been transferred from the hands of a party organization to the hands of individuals or groups of individuals.

The managers of the old party machines tried to find out what their followers wanted by personal conversation between man and man. The ward leader talked with the men whose votes he controlled, and knew what they thought and felt. The district leader talked with the ward leaders, and on the basis of that conversation made up his mind what he wished to do. The members of the county committee talked with the leaders in the several districts and obtained full knowledge of the demands of party men in different sections. The successful politician was the man who under-

stood the art of mixing with men, of getting at what they wanted and coming to an understanding with them as to the degree in which their several wants could be gratified. It was thus that the sentiment was organized which could carry conventions and determine nominations. It was on these means, supplemented by the influence of great orators and debaters who argued in defense of the plans thus framed, that the older politicians relied for securing acceptance of their projects.

The modern politician must go to work in a different way. He must appeal to a wider public sentiment—a sentiment which has been created, not by a vast number of separate conversations but by the influence of a few newspapers and magazines upon their readers. It is through the press—daily, weekly, or monthly—that the American people forms its opinion as to men and measures. The success or failure of a candidate in securing the nomination depends largely upon the support which he receives from this quarter. The man who accomplishes most in modern politics is he who recognizes this fact most fully. It is not by the personal influence which was characteristic of the old party system that nominations are now secured and the way made clear for the passage of laws. It is by the influence of the printed page, which

enables the man who controls it to determine thousands of votes for good or for evil.

In 1824 we overthrew the legislative caucus as a dominant power in politics, and left the field open for the party machine. Today we are overthrowing the party machine and are leaving the field open to the press. In neither case have we provided for the expression of a spontaneous or unorganized public opinion. We have simply substituted one method of organization for another. Under the old system the goodness or badness of a party machine determined whether Congress would make good laws or the administration good appointments. Under the new system the goodness or badness of newspapers is likely to determine whether the initiative and the referendum will be used to promote intelligent legislation; whether the direct primary will give us good candidates or bad candidates; whether we shall be able to surmount the perils with which the experiment of the recall is attended.

Among the many changed conditions of American politics, the growth of an independent press is perhaps the most important. Prior to 1850 it was regarded as almost indispensable for a newspaper to belong to a party. Before the nominating convention met the different sections of the party

would have different newspapers supporting their own particular candidates or measures. After the nominating convention was over the newspapers were expected to fall into line just as the different sections of the party fell into line; and they quite generally did so. The papers that were really independent were few in number, and might be divided into two classes: the very good and the very bad. Journals of each of these classes found their advice neglected by astute politicians; the very good, because their readers were supposed to be cranks, and too frequently gave ground for that supposition; the very bad, because they were known to be for sale to the highest bidder, so that their support carried no weight.

The growth of the free soil party in the North and the consequent agitation in favor of secession in the South gave the press a somewhat greater importance and influence in party councils. The slavery question was one which could not be dealt with by the old political methods of discussion and compromise. A kind of popular feeling was growing up in both North and South which the politicians who framed the compromises of 1848 were powerless to control. Under such circumstances journals like the Springfield Republican, the New York Tribune, and the St. Paul Pioneer Press in

the North, or like the Charleston Mercury and—to take an instance of a different kind—De Bow's Review in the South, were making the opinion which the politicians had to be content to follow. The press in 1860 was thus a far more potent factor in politics than it had been ten years earlier. But it was not as yet a dominant factor. People still liked better to listen to debates than to read editorials; they still preferred to form their opinion from the spoken word rather than from the printed page. Nor were the newspapers and reviews in any true sense independent of party. They did more to make the party than they did before, but when it was made they stood closely by it as an organization. For the sake of moulding the opinions of their fellow Republicans or Democrats on some points, they were content to forego the privilege of expressing their own personal views upon others.

The real power of the press in politics—the power possessed by a paper that tells people the things they want to know, in the face of the hostility of one party machine and the indifference of another—was accidentally discovered by the New York Times in the summer of 1871. Tweed was at that time in complete control of the city government. The efforts of political rivals

to shake his dominance, within his own party or outside of it, had proved futile. The attempts to overthrow him by conventional methods were abortive. The Democratic machine throughout the state was his to direct. Even the Republican leaders were unwilling to engage in active opposition to a system of plunder which, though organized on a larger scale than their own, was yet a natural development of political methods with which they were familiar and by which many of them profited.

While matters were in this shape, a bookkeeper in one of the departments of the city government had gradually collected evidence that the public was being robbed on a large scale. He offered this evidence to one New York paper after another. Incredible as it may now seem, one paper after another refused it. The newspapers of that day were afraid to publish facts which the party machine preferred to keep quiet. Finally the New York Times undertook the campaign of publicity. I am told that it did so with much reluctance and grave apprehension of the possible consequences to itself. But the Times was not being very actively supported or highly valued by the Republican machine at the time; and it decided to take the chance that the people might be interested to

read the detailed evidence as to the way in which millions of dollars were being extracted from their pockets every month.

The result astounded the proprietors of the Times as much as it did anybody else. Men who had listened apathetically when orators like Beecher or Evarts described the way in which the city was being plundered seized eagerly upon the facts when they were put before them in cold type. The printed page had come into its own heritage. It could do things which the spoken word could not do. People called for copies of the Times faster than the press could furnish them. These were days when the sale of other papers on trains and on the streets had practically ceased, because people wanted the Times and nothing else. I can myself remember the distressed lament of some of the Republican leaders that people would insist on getting the Times, whose party regularity was not above suspicion, merely because it gave them the information they desired, when they could have got the same information reprinted in other papers one day later without sacrifice of their party consciences. But it was in vain that they protested. The Staats-Zeitung joined with the Times by publishing the facts in the German tongue. Thomas Nast in Harper's Weekly drove

the lesson home by his inimitable cartoons. In two short months public opinion, formed under the influence of these three newspapers, became overwhelming in its force. The Cooper Union meeting of April 6th, before the newspaper disclosures, had accomplished nothing. The Cooper Union meeting of September 4th, after the newspaper disclosures, was a political upheaval. The indictment of corrupt officials followed in October, a crushing defeat for Tammany as an organization in the elections of November; and before the close of the calendar year the power of Tweed was at an end.

The experience of the New York Times in 1871 taught at least two distinct lessons: first, that facts presented by a newspaper were more effective than the same facts presented by orators of eminence; second, that if a newspaper had such facts in its possession it could commercially afford to print them even if the party leaders did not wish them printed. But the press of the country was rather slow to learn these lessons. A few newspapers in our larger cities assumed an attitude of political independence in municipal affairs. A somewhat larger number adopted the policy of giving an unvarnished tale of facts in their news columns as distinct from their editorial pages. It was not until about ten years later that Joseph Pulitzer

familiarized the public with the theory that a newspaper's first duty was to give its readers information. It was Pulitzer's principle to decide whether a thing should be published and in what shape a thing should be published, solely on the basis of its value as news; with relatively little reference to political or moral considerations, except so far as these considerations might affect the readability of the article and the consequent sale of the paper.

Of the good and the evil that was brought into journalism by this new method, as introduced by Pulitzer and carried out still further by some of his followers, I shall not undertake to speak in detail. We are concerned only with its great and almost revolutionary consequences upon the relation between newspapers and parties. No longer could the party leader hope that a view of the facts which was accepted as profitable by him and his associates in a convention would be presented to the public by a devoted band of newspaper followers and received as gospel truth by nine tenths of the men who read those newspapers. The statement had to be what the newspaper men themselves regarded as profitable for them to publish. The power of moulding public opinion had passed out of the hands of the party leader

and into those of the editor. And as if the politician's troubles with the daily press were not enough, weekly and monthly papers rose in great numbers which undertook with more or less success to tell the people the facts which the editors thought that they wanted; publications which did for the members of the rural community what the daily papers did for the people of our larger cities in giving them data, sometimes right and sometimes wrong, for judging public questions independently of party utterances.

Is this change in the method of organizing public opinion a good one or a bad one? The old-fashioned man of affairs, whether in politics or out of it, is inclined to think it almost wholly bad. The editor of the new school and the reader who takes his opinion from the editor are apt to think it wholly good. The truth, as usual, lies between the two extremes. It is a change which is predominantly for the better, but one which has possibilities of evil as well as of good. And according as the press uses its new power for evil or for good will the results of the referendum and the direct primary, and other similar agencies of modern democracy, be also evil or good.

The organization of public opinion by the newspapers instead of by the party managers has

certain distinct and obvious advantages. In the first place, it involves a more direct appeal to reason. A newspaper owes its power to the fact that its readers think as its editor wishes them to think. Their opinion may be right or wrong. The evidence presented to them may be complete or incomplete. But the opinion is in any case a real opinion, based on an examination of important statements.

In the next place, this opinion is formed in the open instead of being shaped by secret conferences, as was so often the case under old-fashioned party leadership. The newspaper makes its appeal in broad daylight. If the appeal is an unfair one, those who are arguing on the other side have at least a chance to see what is being said and done by their opponents and to try to prove that it is unfair. Government by newspapers is government by discussion. It is perhaps the only form of government by discussion which is practicable in a large community.

In the third place, the appeal which the newspaper makes to its readers almost necessarily takes the form of an appeal to their judgment rather than to their selfishness. A party manager working under the old system is constantly occupied in pointing out to his followers how their personal

interests would be advanced by some measure or some candidate. A newspaper or magazine that should adopt this policy would soon find its influence confined within a limited circle. The general public would suspect, and rightly suspect, that a measure which one group of voters was urged to support on purely selfish grounds would be of doubtful benefit to the community as a whole. A journalist may himself often be led to support certain measures or certain candidates for reasons of self-interest. But his appeal to his readers for support must be placed on broader grounds than this in order to be effective.

Such are the patent and obvious advantages of having the organization of popular opinion left in the hands of the public press. They are so fundamental in character that we are sometimes tempted to overlook the disadvantages and dangers with which this process is attended. The very fact that makes the appeal of the press an almost ideal agency in democratic government when rightly used, correspondingly increases the perils when it is used wrongly. The power of an editor is a power to influence public thinking. If he confines himself to legitimate methods of influence he realizes Bagehot's ideal of government by discussion. If he uses it wrongly and leads his readers to act on

imperfect information, he not only turns the action of the government into wrong channels, but he effects the more permanent and disastrous harm of poisoning public opinion at its source.

I do not mean that this last in its extreme form is a very common thing. While unscrupulous men occasionally acquire power as journalists, they are no more numerous in that profession than in any other. But there is a good deal of danger of unintentional poisoning of public opinion; danger that the journalist, in his honest desire to promote a particular measure, will encourage the public in habits and methods of thought which are antagonistic to the success of democratic government.

The first and most frequent source of harm is that while he is pretending to appeal to the judgment of his readers he really appeals to their emotion.

A man who desires to make his newspaper popular is under a constant temptation to pander to the prejudices of his public. Without actually making grave misstatements, he can print the facts which they like in large type and suppress or relegate to obscure columns the facts which they do not like. Under these circumstances their judgment is distorted and their preconceived impressions confirmed, until they become incapable

of weighing the real evidence on which their political action ought to be based. If another paper tries to furnish them the true facts, they disbelieve it. They are accessible only to the kind of evidence that their own particular journal prefers to furnish.

The editor, under such circumstances, often makes the excuse that he gave his readers what they wanted. Even if he were an ordinary private citizen, this excuse would hardly pass current. The man who puts aniline dyes into children's candy is not excused by the fact that the children like to have their candy bright colored. And the newspaper man is not an ordinary private citizen. He is by the course of recent events put into a place of public responsibility. He has it in his power more than any other man to see that the country is governed well or ill. If he enables his readers to base their votes on organized information he does service. If he leads them to base those votes on organized emotion he does irreparable wrong.

I do not know whether it was President Lowell or some one else who coined the phrase "organized emotion." Whoever may have been the inventor, it is an accurate description of something which gravely threatens the stability of American govern-

ment. Every student of history knows what fearful mistakes democracies have made under the influence of emotion evoked by popular orators; how thousands of men, listening to an appeal to prejudice veiled in the form of exposition of fact, have taken leave of their judgment and brought their commonwealths to the brink of ruin or even beyond it. Our own people have not been wholly exempt from this danger. "The curse of the country," said Daniel Webster in a moment of bitterness, "has been its orators." This dangerous gift of the orator, of making emotion take the place of information, is one to which the newspaper has today fallen heir.

The danger which will result to the commonwealth if our political action is based on organized emotion rather than organized information is peculiarly great in connection with the direct primary.

Under the old-fashioned system of nomination by party conventions, two questions were always asked concerning a candidate: first, did the party want him? and second, could he be elected? It was not enough for the leaders to know whether the candidate was popular with the majority of their followers. It was an equally important question—in fact, in a great many instances a much

more important question—whether he could attract a sufficient number of votes from the opposite party, or hold a sufficient number of doubtful votes within his own party, to make his election reasonably certain. The managers wanted to get the strongest candidate they could; and the strongest candidate was not always the man for whom his party associates were most enthusiastic. He was commonly a man of more moderate views than they. Take a salient instance, which has now become historical. In the presidential campaign of 1860, if the Republican convention had consulted the wishes of the majority of voters within the party it would have nominated Seward. He had taken strong ground against slavery; and northern Republicans who were excited by the heat of our slavery contest saw in him their natural champion. But sagacious men knew that Seward could not be elected, and convinced the convention of the soundness of that view. It nominated Lincoln—a man who spoke less of abstract principles than Seward and more of constitutional law; less of the abolition of slavery—however much he may have had this at heart—and more of the preservation of the Union. The nomination of Lincoln was a distinct disappointment to extremists throughout the North; but it appealed to moderate men in

states adjoining the Potomac and the Ohio, whose votes were necessary and sufficient to elect him.

This instance is a typical one. The convention system has been distinctly favorable to the nomination of businesslike candidates for the principal offices—of candidates who were unsatisfactory to some of the extreme elements in their own party and satisfactory to the moderate men in the opposite party. It has tended to give us men who appealed to the country instead of appealing to a group. With the substitution of the direct primary we are bound to lose something of this advantage. We are almost certain to see a larger number of candidates who represent extreme views on either side. To prevent this danger from becoming fatal the press of the country will have to recognize the responsibility that is placed in its hands by the new conditions, and strive to moderate rather than to accelerate the tides of unreasoning emotion.

Closely akin to the appeal to prejudice is the appeal to impatience; and there is great danger that the modern editor will be tempted to make use of this appeal to the detriment of good government.

The work of governing a commonwealth—nation, state, or city—is a complicated and difficult piece of business. It never goes wholly right. The

statesman must sacrifice some things which he regards as highly desirable in order to secure other things which he deems fundamentally essential. He alone knows how necessary the sacrifice is and how much he himself regrets it. The man who looks on from outside thinks that the statesman is doing it lightly. Such a man sees the loss to the shipper from allowing an increased railroad rate. He does not see that he must let the railroad charge that rate in order to secure the necessary development of the transportation system of the community. He sees the loss from having American vessels pay tolls in the Panama Canal. He does not see the gain in foreign relations due to the adoption of an honorable policy. A journalist is tempted to make himself popular by voicing the complaints of his readers. By advocating a short-sighted policy which works for today only, he can make a profit for himself; and few of those who buy his paper foresee the loss that comes to the country if his advice is followed, or put the blame on his shoulders after it has come.

This sort of captious criticism is one of the incidental evils which has attended government by discussion in all ages and in every state. "Armies," says Macaulay, "have won victories under bad generals, but no army ever won a

victory under a debating society.'' Once let the officials of a democracy be placed at the mercy of a purely critical press, and the efficiency of American democracy—not to say American democracy itself—is at an end. It is this that makes the proposed institution of the recall so perilous. The recall is based on the theory that people should be encouraged to judge of a man's work when it is half done. On terms like these efficient and farsighted administration is impossible. The recall may seem to be justified in a few cases where an official has palpably betrayed his trust without quite rendering himself liable to impeachment; but for one case of that kind where it does good, there are likely to be a dozen cases where it will prevent an official from assuming the sacrifices and incurring the odium which any farsighted plan of government is apt to involve before its results are understood.

Most of the public discussion of the recall has centered about the recall of judges. We are told that the judicial office is something apart by itself, and that there are special dangers which make the recall inapplicable in this particular instance. I believe that this distinction between the recall of judges and the recall of other officials is an essentially false one; that every official should be

allowed to serve out his term, except in case of misconduct or incapacity; and that the nation which claims the right to change its mind as to the fitness of an official during the middle of his term is proving its incapacity for democratic government. It is either unwilling to take the proper care in the selection of officials or unable to have patience until the allotted work is done before passing judgment on its merits.

A third danger to which the press is subject is the assumption of omniscience. In this respect, as in the other two that I have just named, the newspaper or magazine is simply falling in with the prepossessions of its readers. We all rather like to feel that we know everything that is worth knowing. The present tendencies in our education, which lead us to scatter our study over a large range of subjects, tend to strengthen this feeling. Small wonder, then, that the newspaper, bringing a vast range of information within reach of the people, should claim to inform them on many details of business and politics, of science and art, which must necessarily be left to the judgment of the expert if they are to be effectually dealt with in practice. The editor is constantly tempted to flatter his readers into believing that they know everything about government which is worth know-

ing, and that anybody who claims to know more than the general public is either an aristocrat or an impostor.

There is a theory that if you only find out what the people want you will know what the government ought to do. Like most political aphorisms, this is a mixture of truth and falsehood, of practical good sense and unpractical idealism. If we mean by this statement that the ideals of the people and the policy of the government must be in harmony, and that one cannot be a great deal better or a great deal worse than the other without strain and damage and threat of revolution, it is right. But if we interpret it to mean that the people as a whole are competent to decide how the business of government should be managed in each particular instance, it is wrong. This distinction is as old as Aristotle's *Politics* itself. Aristotle showed how the state which deserves the title of "republic" is one where the laws conform to the general wishes of the people, but where at the same time people are content to elect, for the actual conduct of a nation's affairs, men better trained than themselves in the details of public business.

Among the qualities needed to make a democracy successful I should agree with Aristotle in laying great emphasis upon the readiness to value experts

as they deserve to be valued. The larger and more complex the affairs of the state, the less is it possible for each member of the people to inform himself on all the details of public business. In a small country town each intelligent citizen is competent to fill almost any office at short notice. In a city it requires training to be a successful head of one of the departments. In a nation the need of specialization for the proper command of the army and navy and for the proper administration of justice is even more conspicuously necessary. Amid the keen competition that now exists between different peoples, the permanent influence of the United States depends on having its public service carried on with a high degree of technical efficiency. The more complex our development is, the more urgent is the need of self-restraint and modesty in our public opinion; such self-restraint and modesty as will lead us to be content with judging the expert by the results which he achieves instead of trying to prescribe the methods that he shall follow.

If we really value experts properly we must show our faith by our works and be prepared to pay them more in the future than we have been willing to pay them in the past. The parsimony of the American people in this respect has become

a byword. The salaries of our officers in the army and the navy are notoriously low as compared with what men of equal ability could obtain in private business. We refuse to give our judges more than a fraction of the income which they could obtain by the practice of their profession. We take the ground that the honor of serving the country is so great that a man should be content to do it at great pecuniary sacrifice. Fortunately there are many able men among us who are content to accept public service on these niggardly terms. Some have private fortunes of their own. Some are willing to remain poor for the sake of doing their duty to an ungrateful commonwealth. But the general effect of our unwillingness to grant first-rate salaries to first-rate men is deplorable. The waste due to inefficient work and unnecessary red tape is vastly in excess of the economy realized. To save a few hundred thousand dollars in our diplomatic service, we lose millions in our dealings with other states. We are undertaking to hold our place among the nations of the world in a competition which grows every year more keen. But the United States is the one country which begrudges the money necessary and the expert ability necessary to give its citizens a high-grade public service at home and abroad.

Besides placing the proper value upon the services of officials, we must also be prepared to give them a proper degree of independence. We must not keep nagging at them.

In a well-managed private business the man at the head keeps careful control of the general policy and takes great pains to select good men to attend to the several parts. But he does not spend his time interfering with their management of details. If he did, it would interfere both with his efficiency in his work and with their efficiency in theirs. What is true of the individual head of a private business is even more true of the directors of a well-managed corporation. They determine the policy, and choose the men to carry it out. In order to have time and strength to do these things wisely, they leave the details of engineering and of accounting to the officials whom they have selected for the purpose.

The position of a voter in a democracy is essentially that of a director rather than that of an official. It is his function to place the right men at the head of certain departments of the government and prescribe the ends which they should try to attain. The means by which they are to reach these ends should generally be left to the judgment of the officials themselves. But this

principle, which is understood in every well-conducted private business, is not understood in public business. We lay more stress on the need of watching our officers than we should, and less stress on the need of choosing them carefully and leaving them to themselves. Instead of rejoicing when we can put a department of the government in the hands of a man who knows more than we do about the methods of conducting it, we are jealous of superior knowledge and watch its manifestations with suspicion.

There are certain points on which it is possible for the citizens of the community as a body to form an intelligent public opinion. There are certain other points on which opinion is valueless without technical training behind it; and the decision of these points must be left to the different groups of men who have the expert knowledge which is necessary. The whole town can decide where a bridge ought to be built and how much should be spent in building it. It requires knowledge of mathematics to know how to design the bridge, and knowledge of physics and chemistry to know what sort of materials to use in its construction. The whole community can know whether it wants to have railroads owned by the government or by private corporations. It requires

knowledge of engineering to know how to locate such railroads properly, and knowledge of political economy to know what system of rates can be adopted. Any attempt to settle scientific matters by public opinion means rotten bridges and bankrupt railroads.

The American people has made some progress toward learning this lesson. We no longer entrust politicians with the command of armies, as was so frequently done in Athens or Rome. A proposal to take the conduct of the army in the field out of the hands of army officers and put it into the hands of members of Congress, which was seriously urged in 1848, would seem quite laughable today. But we need to carry the lesson further in the next century than we have in the last. We are in more immediate competition with Europe now than we were fifty years ago. To keep our place in this competitive struggle, we must prove that a democracy can manage business as well as a monarchy; that it can show the same care in the selection of officials and the same self-restraint in judging of their work before it is done. The people as a whole must assume the double duty of voting intelligently on matters which public opinion can decide and leaving to the specialist matters which can only be decided by the specialist; of holding

the expert responsible for results and promoting the man who has done business well rather than the one who flatters the people that he is going to do business in a way they will like and understand. Thus, and thus only, can we combine two things which are equally essential to American democracy if it is to hold its place among the nations: popular sovereignty and efficient government.

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